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J.E. H. sc.

The Rt. Hon^{ble} C. J. Fox.

SELECT
SPEECHES,
FORENSICK AND PARLIAMENTARY,
WITH PREFATORY REMARKS.

BY

N. CHAPMAN, M. D.

**HONORARY MEMBER OF THE ROYAL MEDICAL SOCIETY OF
EDINBURGH, AND MEMBER OF THE AMERICAN
PHILOSOPHICAL SOCIETY, &c. &c.**

VOL. III.

—Pietate gravem ac meritis si forte virum quem
Conspexere, silent, arrectisque auribus astant;
Ille regis dictis animos et pectora mulcet.....VIRG.

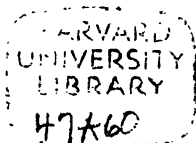
PHILADELPHIA:

**PUBLISHED BY B. B. HOPKINS, AND CO.
NO. 170, MARKET STREET.**

1807.

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DISTRICT OF PENNSYLVANIA, TO WIT:

(L. S.) **BE IT REMEMBERED**, That on the first day of August, in the thirty-second year of the independence of the United States of America, A. D. 1807, Nathaniel Chapman, M. D. of the said district, hath deposited in this office, the title of a book, the right whereof he claims as proprietor in the words following, to wit :

" SELECT SPEECHES, Forensick and Parliamentary, with prefatory remarks. By N. Chapman, M. D. honorary member of the Royal Medical Society of Edinburgh, and member of the American Philosophical Society, &c. &c.

—Pietate gravem ac meritis si forte virum quem
Conspexere, silent, arrectisque auribus astant ;
Ille regit dictis animos et pectora mulcet.....VIRG."

In conformity to the act of the Congress of the United States, entitled, " An act for the encouragement of Learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned." And also to the act, entitled " An act supplementary to the act, entitled, ' An act for the encouragement of learning, by securing the copies of maps charts, and books, to the authors and proprietors of such copies during the times therein mentioned,' and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints."

D. CALDWELL,
Clerk of the District of Pennsylvania.

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PREFACE

TO THE THIRD AND FOURTH VOLUME.

YIELDING to the eager and importunate curiosity of his subscribers, the editor is induced to depart from the regular order of publication, and to commence with these intermediate volumes of the series, as being that section of the work which he thinks may most advantageously be put to press.

He consents the more cheerfully to this arrangement, because, it holds out the prospect of enabling him to introduce into the initial volumes, the proper place of their insertion, several speeches of a remoter date, of great value, which he had not at first procured, but which, according to expectation, the diligence of his research has since put into his possession. Nor does he conceive that any serious objection can be raised against the innovation, when applied, as in the present instance, to a miscellany, in which there is no coherence, or dependence of its parts. Moreover, if

additional apology be required, the editor can plead the sanction of precedent for the license he has assumed. However novel this mode of publication may appear, on this side of the Atlantick, it is frequently adopted by British booksellers and authors, and publick criticism has more than once applauded the utility of the practice. MR. HUME printed his history of England exactly in this manner, and many other instances of equal weight might be cited, if necessary, to the editor's justification.

The subsequent volumes of the work shall appear with "all convenient despatch." The first and second of which, will contain some speeches of the "olden time;" many of lord Chatham's, and of his brilliant cotemporaries, and further specimens of *Irish eloquence*. The fifth, and final volume, it is meant to devote, exclusively, to speeches forensick and parliamentary, of our own country. Thus, will the work present a more complete view of modern eloquence, than hitherto has been exhibited.

In vindication of the brevity, with which some of the *prefatory notices* are written, it may be observed that they comprise whatever is necessary to the explanation of the case, in which the speech was delivered; and that they could not well have been extended, even if it were demanded, without narrowing those topicks, which are reserved for the general introduction of the work.

In the collation of the speeches, contained in these volumes, the editor, rejecting vague reports, and newspaper authority, has been particularly solicitous

to select such orations and pleadings, as have undergone the revision, or been published under the actual superintendence of the author. He has been sedulous to follow with fidelity the text, nor ever presumed foolishly, if not flagitiously, to interpolate the copy; a practice, which of late, has become a sort of fashion in America, to the confusion of authors, and to the prejudice of learning.

The editor, in preparing this compilation for the press, felt none of the incitements of literary ambition, nor does he now arrogate any of the pretensions of authorship. The motives, which led him to undertake it, were of a very different kind. He contemplated it as an enterprise, certainly of a useful, splendid, and honourable nature, peculiarly calculated to recreate his leisure, and to deceive the burthens of an anxious and arduous profession.

Having, thus, incidentally, alluded to his walk in life, he hopes that neither his medical brethren, nor the publick at large, will deem him a *reprehensible* wanderer, though, in the *intervals* of professional duty, he has excursed to the Bar or the Senate to make no inaccurate report of the dexterity of wit, and the dictates of wisdom, the sagacity of statesmen, and the eloquence of orators.

By the mythology of the ancients, which has often a fine, though not always an obvious moral, we are instructed that the study and practice of physick was most conspicuously connected with the love of the liberal arts, and of polite literature.

In a mood of no censurable enthusiasm, may the editor exclaim, as to an Apollo, the tutelary god, not only of the disciples of Esculapius, but of the votaries of the muses,

Phæbe, fave, novus ingreditur tua templa sacerdos.

SELECT SPEECHES.

MR. BURKE'S SPEECH

ON THE

MOTION MADE FOR PAPERS

RELATIVE TO THE DIRECTIONS FOR CHARGING THE NABOB
OF ARCOT'S PRIVATE DEBTS TO EUROPEANS, ON THE
REVENUES OF THE CARNATICK. FEB. 28, 1785.

*Ἐυλαῖθα τί πρῶτον ἐχρῆν ἄνδρα τῶν Πλάτωνος καὶ Ἀριστοτέλους
ζηλωτὴν δογματῶν; ἄρα περιορῶν ἀνθρώπους ἀθλίως τοῖς κλέπταις ἐκδιδο-
μένους, ἢ κατὰ δύναμιν αὐτοῖς ἀρόντιν, εἶμαι, ὥς ἡδὴ το κύκνειον ἐξέδουσι
διὰ τὸ θιομιστὸς ἐργαστήριον τῶν τοιούτων; Ἐμοὶ μὲν ἐν αἰσχροῖς εἶναι
δοκεῖ τὰς μὲν χιλιάρχους, ὅταν λείπῃσι τὴν τάξιν. καθ' ἡμέραν τὴν δὲ
ὕπὲρ ἀθλίων ἀνθρώπων ὑπολείπῃσι τάξιν, ὅταν δὴ πρὸς κλεπτικὰς ἀγωνίζ-
ουσαι τοιούτης καὶ ταῦτα τῷ Θεῷ συμμαχῶντος ἡμῖν. ὥσπερ ἐν ἔτυξη.*

JULIANA, Epist. 17.

ADVERTISEMENT.

THAT the least informed reader of this speech may be enabled to enter fully into the spirit of the transaction on occasion of which it was delivered, it may be proper to acquaint him, that among the princes dependent on this nation in the southern part of India, the most considerable at present is commonly known by the title of the Nabob of Arcot.

This prince owed the establishment of his government, against the claims of his elder brother, as well as those of other competitors, to the arms and influence of the British East India company. Being thus established in a considerable part of the dominions he now possesses, he began, about the year 1765, to form, at the instigation (as he asserts) of the servants of the East India company, a variety of designs for the further extension of his territories. Some years after, he carried his views to certain objects of interior arrangement, of a very pernicious

nature. None of these designs could be encompassed without the aid of the company's arms; nor could those arms be employed consistently with an obedience to the company's orders. He was therefore advised to form a more secret, but an equally powerful interest among the servants of that company, and among others both at home and abroad. By engaging them in his interests, the use of the company's power might be obtained without their ostensible authority; the power might even be employed in defiance of the authority; if the case should require, as in truth it often did require, a proceeding of that degree of boldness.

The company had put him into possession of several great cities and magnificent castles. The good order of his affairs, his sense of personal dignity, his ideas of oriental splendour, and the habits of an Asiatick life (to which, being a native of India, and a Mahometan, he had from his infancy been inured) would naturally have led him to fix the seat of his government within his own dominions. Instead of this, he totally sequestered himself from his country; and abandoning all appearance of state, he took up his residence in an ordinary house, which he purchased in the suburbs of the company's factory at Madras. In that place he has lived, without removing one day from thence, for several years past. He has there continued a constant cabal with the company's servants, from the highest to the lowest; creating, out of the ruins of the country, brilliant fortunes for those who will, and entirely destroying those who will not, be subservient to his purposes.

An opinion prevailed, strongly confirmed by several passages in his own letters, as well as by a combination of circumstances forming a body of evidence which cannot be resisted, that very great sums have been by him distributed, through a long course of years, to some of the company's servants. Besides these presumed payments in ready money (of which, from the nature of the thing, the direct proof is very difficult) debts have at several periods been acknowledged to those gentlemen, to an immense amount; that

is, to some millions of sterling money. There is strong reason to suspect, that the body of these debts is wholly fictitious, and was never created by money *bona fide* lent. But even on a supposition that this vast sum was really advanced, it was impossible that the very reality of such an astonishing transaction should not cause some degree of alarm, and incite to some sort of inquiry.

It was not at all seemly, at a moment when the company itself was so distressed, as to require a suspension, by act of parliament, of the payment of bills drawn on them from India—and also a direct tax upon every house in England, in order to facilitate the vent of their goods, and to avoid instant insolvency—at that very moment that their servants should appear in so flourishing a condition, as, besides ten millions of other demands on their masters, to be entitled to claim a debt of three or four millions more from the territorial revenue of one of their dependent princes.

The ostensible pecuniary transactions of the nabob of Arcot, with very private persons, are so enormous, that they evidently set aside every pretence of policy, which might induce a prudent government in some instances to wink at ordinary loose practice in ill-managed departments. No caution could be too great in handling this matter; no scrutiny too exact. It was evidently the interest, and as evidently at least in the power, of the creditors, by admitting secret participation in this dark and undefined concern, to spread corruption to the greatest and the most alarming extent.

These facts relative to the debts were so notorious, the opinion of their being a principal source of the disorders of the British government in India was so undisputed and universal, that there was no party, no description of men in parliament, who did not think themselves bound, if not in honour and conscience, at least in common decency, to institute a vigorous inquiry into the very bottom of the business, before they admitted any part of that vast and suspi-

cious charge to be laid upon an exhausted country. Every plan concurred in directing such an inquiry; in order that whatever was discovered to be corrupt, fraudulent, or oppressive, should lead to a due animadversion on the offenders; and if any thing fair and equitable in its origin should be found (no body suspected that much, comparatively speaking, would be so found) it might be provided for; in due subordination, however, to the ease of the subject, and the service of the state.

These were the alleged grounds for an inquiry, settled in all the bills brought into parliament relative to India, and there were I think no less than four of them. By the bill, commonly called Mr. Pitt's bill, the inquiry was specially, and by express words, committed to the court of directors, without any reserve for the interference of any other person or persons whatsoever. It was ordered that *they* should make the inquiry into the origin and justice of these debts, as far as the materials in *their* possession enabled them to proceed; and where *they* found those materials deficient, *they* should order the presidency of Fort St. George [Madras] to complete the inquiry.

The court of directors applied themselves to the execution of the trust reposed in them. They first examined into the amount of the debt, which they computed, at compound interest, to be 2,945,600*l.* sterling. Whether their mode of computation, either of the original sums, or the amount on compound interest, was exact; that is, whether they took the interest too high, or the several capitals too low, is not material. On whatever principle any of the calculations were made up, none of them found the debt to differ from the recital of the act, which asserted, that the sums claimed were "*very large.*" The last head of these debts the directors compute at 2,465,680*l.* sterling. Of the existence of this debt the directors heard nothing until 1776, and they say, that, "although they had *repeatedly* written to the nabob of Arcot, and to their servants, respecting the

debt, yet they *had never been able to trace the origin thereof, or to obtain any satisfactory information on the subject.*"

The court of directors, after stating the circumstances under which the debts appeared to them to have been contracted, add as follows: "For these reasons we should have thought it our duty to inquire *very minutely* into those debts, even if the act of parliament had been silent on the subject, before we concurred in any measure for their payment. But with the positive injunctions of the act before us, to examine into their nature and origin, we are indispensably bound to direct such an inquiry to be instituted." They then order the president and council of Madras to enter into a full examination, &c. &c.

The directors having drawn up their order to the presidency on these principles, communicated the draught of the general letter in which those orders were contained, to the board of his majesty's ministers, and other servants, lately constituted by Mr. Pitt's East-India act. These ministers, who had just carried through parliament the bill ordering a specifick inquiry, immediately drew up another letter, on a principle directly opposite to that, which was prescribed by the act of parliament, and followed by the directors. In these second orders, all idea of an inquiry into the justice and origin of the pretended debts, particularly of the last, the greatest, and the most obnoxious to suspicion, is abandoned. They are all admitted and established without any investigation whatsoever; except some private conference with the agents of the claimants is to pass for an investigation; and a fund for their discharge is assigned and set apart out of the revenues of the Carnatick.—To this arrangement in favour of their servants suspected of corruption, and convicted of disobedience, the directors of the East-India company were ordered to set their hands, asserting it to arise from their own conviction and opinion, in flat contradiction to their recorded sentiments, their strong remonstrance, and their declared sense of their

duty, as well under their general trust and their oath as directors, as under the express injunctions of an act of parliament.

By another section of the same act, the same court of directors were ordered to take into consideration and to decide on the indeterminate rights of the rajah of Tanjore, and the nabob of Arcot; and in this, as in the former case, no power of appeal, revision, or alteration was reserved to any other. It was a jurisdiction, in a cause between party and party, given to the court of directors specifically. It was known, that the territories of the former of these princes had been twice invaded and pillaged, and the prince deposed and imprisoned, by the company's servants, influenced by the intrigues of the latter, and for the purpose of paying his pretended debts. The company had, in the year 1775, ordered a restoration of the rajah to his government, under certain conditions. The rajah complained that his territories had not been completely restored to him; and that no part of his goods, money, revenues, or records, unjustly taken and withheld from him, were ever returned. The nabob, on the other hand, never ceased to claim the country itself, and carried on a continued train of negotiation, that it should again be given up to him, in violation of the company's publick faith.

The directors, in obedience to this part of the act, ordered an inquiry, and came to a determination to restore certain of his territories to the rajah. The ministers proceeding as in the former case, without hearing any party, rescinded the decision of the directors, refused the restitution of the territory, and without regard to the condition of the country of Tanjore, which had been within a few years four times plundered (twice by the nabob of Arcot, and twice by enemies brought upon it solely by the politicks of the same nabob, the declared enemy of that people) and without discounting a shilling for their sufferings, they accumulate an arrear of about 400,000 pounds of pretended tribute to this enemy; and then they order the directors to put their hands to a new adju-

dication, directly contrary to a judgment in a judicial character and trust, solemnly given by them, and entered on their records.

These proceedings naturally called for some inquiry. On the 28th of February, 1785, Mr. Fox made the following motion in the house of commons, after moving that the clauses of the act should be read—"That the proper officer do lay before this house copies and extracts of all letters and orders of the court of directors of the united East-India company, in pursuance of the injunctions contained in the 37th and 38th clauses of the said act;"—and the question being put, it passed in the negative by a very great majority.

SPEECH, &c.

THE times we live in, Mr. Speaker, have been distinguished by extraordinary events. Habituated, however, as we are, to uncommon combinations of men and of affairs, I believe nobody recollects any thing more surprising than the spectacle of this day. The right honourable gentleman,* whose conduct is now in question, formerly stood forth in this house, the prosecutor of the worthy baronet† who spoke after him. He charged him with several grievous acts of malversation in office; with abuses of a publick trust of a great and heinous nature. In less than two years we see the situation of parties reversed; and a singular revolution puts the worthy baronet in a fair way of returning the prosecution in a recriminatory bill of pains and penalties, grounded on a breach of publick trust, relative to the government of the very same part of India. If he should undertake a bill of that kind, he will find no difficulty in conducting it with a degree of skill and vigour fully equal to all that have been exerted against him.

* Right honourable Henry Dundas.

† Sir Thomas Rumbold, late governour of Madras.

But the change of relation between these two gentlemen is not so striking as the total difference of their deportment under the same unhappy circumstances. Whatever the merits of the worthy baronet's defence might have been, he did not shrink from the charge. He met it with manliness of spirit, and decency of behaviour. What would have been thought of him, if he had held the present language of his old accuser? When articles were exhibited against him by that right honourable gentleman, he did not think proper to tell the house that we ought to institute no inquiry, to inspect no paper, to examine no witness. He did not tell us (what at that time he might have told us with some show of reason) that our concerns in India were matters of delicacy; that to divulge any thing relative to them would be mischievous to the state. He did not tell us, that those who would inquire into his proceedings were disposed to dismember the empire. He had not the presumption to say, that for his part, having obtained in his Indian presidency, the ultimate object of his ambition, his honour was concerned in executing with integrity the trust which had been legally committed to his charge. That others, not having been so fortunate, could not be so disinterested; and therefore their accusations could spring from no other source than faction, and envy to his fortune.

Had he been frontless enough to hold such vain, vapouring language in the face of a grave, a detailed, a specified matter of accusation, whilst he violently resisted every thing which could bring the merits of his cause to the test; had he been wild enough to anticipate the absurdities of this day; that is, had he inferred, as his late accuser has thought proper to do, that he could not have been guilty of malversation in office, for this sole and curious reason, that he had been in office; had he argued the impossibility of his abusing his power on this sole principle, that he had power to abuse, he would have left but one impression on the mind of every man who heard him, and who

believed him in his senses—that in the utmost extent he was guilty of the charge.

But, sir, leaving these two gentlemen to alternate, as criminal and accuser, upon what principles they think expedient; it is for us to consider, Whether the chancellor of the exchequer, and the treasurer of the navy, acting as a board of control, are justified by law or policy, in suspending the legal arrangements made by the court of directors, in order to transfer the publick revenues to the private emolument of certain servants of the East India company, without the inquiry into the origin and justice of their claims, prescribed by an act of parliament?

It is not contended, that the act of parliament did not expressly ordain an inquiry. It is not asserted that this inquiry was not, with equal precision of terms, specially committed under particular regulations to the court of directors. I conceive, therefore, the board of control had no right whatsoever to intermeddle in that business. There is nothing certain in the principles of jurisprudence, if this be not undeniably true, that when a special authority is given to any persons by name, to do some particular act, no others, by virtue of general powers, can obtain a legal title to intrude themselves into that trust, and to exercise those special functions in their place. I therefore consider the intermeddling of ministers in this affair as a downright usurpation. But if the strained construction, by which they have forced themselves into a suspicious office (which every man, delicate with regard to character, would rather have sought constructions to avoid) were perfectly sound and perfectly legal, of this I am certain, that they cannot be justified in declining the inquiry which had been prescribed to the court of directors. If the board of control did lawfully possess the right of executing the special trust given to that court, they must take it as they found it, subject to the very same regulations which bound the court of directors. It will be allowed that the court of directors had no authority to dispense with either the substance, or the

mode of inquiry prescribed by the act of parliament. If they had not, where in the act, did the board of control acquire that capacity? Indeed, it was impossible they should acquire it.—What must we think of the fabrick and texture of an act of parliament which should find it necessary to prescribe a strict inquisition; that should descend into minute regulations for the conduct of that inquisition; that should commit this trust to a particular description of men, and in the very same breath should enable another body, at their own pleasure, to supersede all the provisions the legislature had made, and to defeat the whole purpose, end, and object of the law? This cannot be supposed even of an act of parliament conceived by the ministers themselves, and brought forth during the delirium of the last session.

My honourable friend has told you in the speech which introduced his motion, that fortunately this question is not a great deal involved in the labyrinths of Indian detail. Certainly not. But if it were, I beg leave to assure you, that there is nothing in the Indian detail which is more difficult than in the detail of any other business. I admit, because I have some experience of the fact, that for the interior regulation of India, a minute knowledge of India is requisite. But, on any specifick matter of delinquency in its government, you are as capable of judging, as if the same thing were done at your door. Fraud, injustice, oppression, speculation, engendered in India, are crimes of the same blood, family, and cast with those that are born and bred in England. To go no further than the case before us; you are just as competent to judge whether the sum of four millions sterling ought, or ought not, to be passed from the publick treasury into a private pocket, without any title except the claim of the parties, when the issue of fact is laid in Madras, as when it is laid in Westminster. Terms of art, indeed, are different in different places; but they are generally understood in none. The technical style of an Indian treasury is not one jot more remote than the jargon of our own

exchequer, from the train of our ordinary ideas, or the idiom of our common language. The difference, therefore, in the two cases is not in the comparative difficulty or facility of the two subjects, but in our attention to the one, and our total neglect of the other. Had this attention and neglect been regulated by the value of the several objects, there would be nothing to complain of. But the reverse of that supposition is true. The scene of the Indian abuse is distant indeed; but we must not infer, that the value of our interest in it is decreased in proportion as it recedes from our view. In our politicks, as in our common conduct, we shall be worse than infants, if we do not put our senses under the tuition of our judgment, and effectually cure ourselves of that optical illusion which makes a briar at our nose of greater magnitude, than an oak at five hundred yards distance.

I think I can trace all the calamities of this country to the single source of our not having had steadily before our eyes a general, comprehensive, well-connected, and well-proportioned view of the whole of our dominions, and a just sense of their true bearings and relations. After all its reductions, the British empire is still vast and various. After all the reductions of the house of commons (stripped as we are of our brightest ornaments, and of our most important privileges) enough are yet left to furnish us, if we please, with means of showing to the world, that we deserve the superintendence of as large an empire as this kingdom ever held, and the continuance of as ample privileges as the house of commons, in the plenitude of its power, had been habituated to assert. But if we make ourselves too little for the sphere of our duty; if on the contrary, we do not stretch and expand our minds to the compass of their object, be well assured, that every thing about us will dwindle by degrees, until at length our concerns are shrunk to the dimensions of our minds. It is not a prediction to mean, sordid, home-bred cares, that will avert the consequences of a false estimation of our interest, or prevent the shameful dilapidation into

which a great empire must fall, by mean reparations upon mighty ruins.

I confess I feel a degree of disgust, almost leading to despair, at the manner in which we are acting in the great exigencies of our country. There is now a bill in this house, appointing a rigid inquisition into the minutest detail of our offices at home. The collection of sixteen millions annually; a collection on which the publick greatness, safety, and credit have their reliance; the whole order of criminal jurisprudence, which holds together society itself, have at no time obliged us to call forth such powers; no, nor any thing like them. There is not a principle of the law and constitution of this country that is not subverted to favour the execution of that project. And for what is all this apparatus of bustle and terrour? Is it because any thing substantial is expected from it? No. The stir and bustle itself is the end proposed. The eye-servants of a short sighted master will employ themselves, not on what is most essential to his affairs, but on what is nearest to his ken. Great difficulties have given a just value to economy; and our minister of the day must be an economist, whatever it may cost us. But where is he to exert his talents? At home to be sure; for where else can he obtain a profitable credit for their exertion? It is nothing to him, whether the object on which he works under our eye be promising or not. If he does not obtain any publick benefit, he may make regulations without end. Those are sure to pay in present expectation, whilst the effect is at a distance, and may be the concern of other times, and other men. On these principles he chooses to suppose (for he does not pretend more than to suppose) a naked possibility, that he shall draw some resource out of crumbs dropped from the trenchers of penury; that something shall be laid in store from the short allowance of revenue officers, overloaded with duty, and famished for want of bread; by a reduction from officers who are at this very hour ready to batter the treasury with what breaks through stone walls, for an

increase of their appointments. From the marrowless bones of these skeleton establishments, by the use of every sort of cutting, and of every sort of fretting tool, he flatters himself that he may chip and rasp an empirical alimentary powder, to diet into some similitude of health and substance the languishing chimeras of fraudulent reformation.

Whilst he is thus employed according to his policy and to his taste, he has not leisure to inquire into those abuses in India that are drawing off money by millions from the treasures of this country, which are exhausting the vital juices from members of the state, where the publick inanition is far more sorely felt than in the local exchequer of England. Not content with winking at these abuses, whilst he attempts to squeeze the laborious ill-paid drudges of English revenue, he lavishes in one act of corrupt prodigality, upon those who never served the publick in any honest occupation at all, an annual income equal to two thirds of the whole collection of the revenues of this kingdom.

Actuated by the same principle of choice, he has now on the anvil another scheme, full of difficulty and desperate hazard, which totally alters the commercial relation of two kingdoms; and what end soever it shall have, may bequeath a legacy of heart-burning and discontent to one of the countries, perhaps to both, to be perpetuated to the latest posterity. This project is also undertaken on the hope of profit. It is provided, that out of some (I know not what) remains of the Irish hereditary revenue, a fund at some time, and of some sort, should be applied to the protection of the Irish trade. Here we are commanded again to task our faith, and to persuade ourselves, that out of the surplus of deficiency, out of the savings of habitual and systematick prodigality, the minister of wonders will provide support for this nation, sinking under the mountainous load of two hundred and thirty millions of debt. But whilst we look with pain at his desperate and laborious trifling; whilst we are apprehensive that he will break his

back in stooping to pick up chaff and straws, he recovers himself at an elastick bound, and with a broad-cast swing of his arms, he squanders over his Indian field a sum far greater than the clear produce of the whole hereditary revenue of the kingdom of Ireland.*

Strange as this scheme of conduct in ministry is, and inconsistent with all just policy, it is still true to itself, and faithful to its own perverted order. Those who are bountiful to crimes, will be rigid to merit, and penurious to service. Their penury is even held out as a blind and cover to their prodigality. The economy of injustice is to furnish resources for the fund of corruption. Then they pay off their protection to great crimes and great criminals, by being inexorable to the paltry frailties of little men; and these modern flagellants are sure, with a rigid fidelity, to whip their own enormities on the vicarious back of every small offender.

It is to draw your attention to economy of quite another order; it is to animadvert on offences of a far different description, that my honourable friend has brought before you the motion of this day. It is to perpetuate the abuses which are subverting the fabrick of your empire, that the motion is opposed. It is therefore with reason (and if he has power to carry himself through, I commend his prudence) that the right honourable gentleman makes his stand at the very outset; and boldly refuses all parliamentary information. Let him admit but one step towards inquiry, and he is undone. You must be ignorant, or he cannot be safe. But before his curtain is let down, and the shades of eternal night shall veil our eastern dominions from our view, permit me, sir, to avail myself of the means which were furnished in anxious

* The whole of the net Irish hereditary revenue is on a medium of the last seven years, about 330,000*l.* yearly. The revenues of all denominations fall short more than 150,000*l.* yearly of the charges. On the *present* produce, if Mr. Pitt's scheme was to take place, he might gain from seven to ten thousand pounds a year.

and inquisitive times, to demonstrate out of this single act of the present minister, what advantages you are to derive from permitting the greatest concern of this nation to be separated from the cognizance, and exempted even out of the competence, of parliament. The greatest body of your revenue, your most numerous armies, your most important commerce, the richest sources of your publick credit, (contrary to every idea of the known settled policy of England) are on the point of being converted into a mystery of state. You are going to have one half of the globe hid even from the common liberal curiosity of an English gentleman. Here a grand revolution commences. Mark the period, and mark the circumstances. In most of the capital changes that are recorded in the principles and system of any government, a publick benefit of some kind or other has been pretended. The revolution commenced in something plausible, in something which carried the appearance at least of punishment of delinquency, or correction of abuse. But here, in the very moment of the conversion of a department of British government into an Indian mystery, and in the very act in which the change commences, a corrupt, private interest is set up in direct opposition to the necessities of the nation. A diversion is made of millions of the publick money from the publick treasury to a private purse. It is not into secret negotiations for war, peace, or alliance, that the house of commons is forbidden to inquire. It is a matter of account; it is a pecuniary transaction; it is the demand of a suspected steward upon ruined tenants and an embarrassed master, that the commons of Great Britain are commanded not to inspect. The whole tenour of the right honourable gentleman's argument is consonant to the nature of his policy. The system of concealment is fostered by a system of falsehood. False facts, false colours, false names of persons and things, are its whole support.

Sir, I mean to follow the right honourable gentleman over that field of deception, clearing what he

has purposely obscured, and fairly stating what it was necessary for him to misrepresent. For this purpose, it is necessary you should know with some degree of distinctness, a little of the locality, the nature, the circumstances, the magnitude of the pretended debts on which this marvellous donation is founded, as well as of the persons from whom and by whom it is claimed.

Madras, with its dependencies, is the second (but with a long interval, the second) member of the British empire in the east. The trade of that city, and of the adjacent territory, was, not very long ago, among the most flourishing in Asia. But since the establishment of the British power, it has wasted away under a uniform, gradual decline; insomuch that in the year 1779 not one merchant of eminence was to be found in the whole country. During this period of decay, about six hundred thousand sterling pounds a year have been drawn off by English gentlemen on their private account, by the way of China alone. If we add four hundred thousand, as probably remitted through other channels, and in other mediums, that is, in jewels, gold, and silver directly brought to Europe, and in bills upon the British and foreign companies, you will scarcely think the matter over-rated. If we fix the commencement of this extraction of money from the Carnatick at a period no earlier than the year 1760, and close it in the year 1780, it probably will not amount to a great deal less than twenty millions of money.

During the deep silent flow of this steady stream of wealth, which set from India into Europe, it generally passed on with no adequate observation; but happening at some periods to meet rifts of rocks that checked its course, it grew more noisy, and attracted more notice. The pecuniary discussions caused by an accumulation of part of the fortunes of their servants in a debt from the nabob of Arcot, was the first thing which very particularly called for, and long engaged, the attention of the court of directors. This debt amounted to eight hundred and eighty

thousand pounds sterling, and was claimed, for the greater part, by English gentlemen, residing at Madras. This grand capital, settled at length by order at ten *per cent.* afforded an annuity of eighty-eight thousand pounds.*

Whilst the directors were digesting their astonishment at this information, a memorial was presented to them from three gentlemen, informing them that their friends had lent likewise, to merchants of Canton in China, a sum of not more than one million sterling. In this memorial they called upon the company for their assistance and interposition with the Chinese government for the recovery of the debt. This sum lent to Chinese merchants, was at 24 *per cent.* which would yield, if paid, an annuity of two hundred and forty thousand pounds.†

Perplexed as the directors were with these demands, you may conceive, sir, that they did not find themselves very much disembarrassed, by being made acquainted that they must again exert their influence for a new reserve of the happy parsimony of their servants, collected into a second debt from the nabob of Arcot, amounting to two millions four hundred thousand pounds, settled at an interest of 12 *per cent.* This is known by the name of the Consolidation of 1777, as the former of the nabob's debts was by the title of the Consolidation of 1767. To this was added, in a separate parcel, a little reserve called the Cavalry debt, of one hundred and sixty-thousand pounds, at the same interest. The whole of these four capitals, amounting to four millions four hundred and forty thousand pounds, produced at their several rates, annuities amounting to six hundred and twenty-three thousand pounds a year; a good deal more than one third of the clear land-tax

* Fourth report, Mr. Dundas's committee, p. 4.

† A witness examined before the committee of secrecy, says, that eighteen *per cent.* was the usual interest; but he had heard that more had been given. The above is the account which Mr. B. received.

of England, at four shillings in the pound; a good deal more than double the whole annual dividend of the East India company, the nominal masters to the proprietors in these funds. Of this interest, three hundred and eighty-three thousand two hundred pounds a year stood chargeable on the publick revenues of the Carnatick.

Sir, at this moment, it will not be necessary to consider the various operations which the capital and interest of this debt have successively undergone. I shall speak to these operations when I come particularly to answer the right honourable gentleman on each of the heads, as he has thought proper to divide them. But this was the exact view in which these debts first appeared to the court of directors, and to the world. It varied afterwards. But it never appeared in any other than a most questionable shape. When this gigantick phantom of debt first appeared before a young minister, it naturally would have justified some degree of doubt and apprehension. Such a prodigy would have filled any common man with superstitious fears. He would exorcise that shapeless, nameless form, and by every thing sacred would have adjured it to tell by what means a small number of slight individuals, of no consequence or situation, possessed of no lucrative offices, without the command of armies, or the known administration of revenues, without profession of any kind, without any sort of trade sufficient to employ a pedlar, could have, in a few years (as to some even in a few months) amassed treasures equal to the revenues of a respectable kingdom? Was it not enough to put these gentlemen, in the noviciate of their administration, on their guard, and to call upon them for a strict inquiry (if not to justify them in a reprobation of those demands without any inquiry at all) that when all England, Scotland, and Ireland had for years been witness to the immense sums laid out by the servants of the company in stocks of all denominations, in the purchase of lands, in the buying and building of houses, in the securing quiet seats in parliament, or in the tumult-

tuous riot of contested elections, in wandering throughout the whole range of those variegated modes of inventive prodigality, which sometimes have excited our wonder, sometimes roused our indignation; that after all India was four millions still in debt to *them*? India in debt to *them*! For what! Every debt for which an equivalent of some kind or other is not given, is on the face of it a fraud. What is the equivalent they have given? What equivalent had they to give? What are the articles of commerce, or the branches of manufacture which those gentlemen have carried hence to enrich India? What are the sciences they beamed out to enlighten it? What are the arts they introduced to cheer and to adorn it? What are the religious, what the moral institutions they have taught among that people as a guide to life, or as a consolation when life is to be no more, that there is an eternal debt, a debt "still paying, still to owe," which must be bound on the present generation in India, and entailed on their mortgaged posterity forever? A debt of millions, in favour of a set of men, whose names, with few exceptions, are either buried in the obscurity of their origin and talents, or dragged into light by the enormity of their crimes?

In my opinion the courage of the minister was the most wonderful part of the transaction, especially as he must have read, or rather the right honourable gentleman says, he has read for him, whole volumes upon the subject. The volumes, by the way, are not by one tenth part so numerous as the right honourable gentleman has thought proper to pretend, in order to frighten you from inquiry; but in these volumes, such as they are, the minister must have found a full authority for a suspicion (at the very least) of every thing relative to the great fortunes made at Madras. What is that authority? Why no other than the standing authority for all the claims which the ministry has thought fit to provide for—the grand debtor—the nabob of Arcot himself. Hear that prince, in the letter written to the court of direc-

tors, at the precise period, whilst the main body of these debts were contracting. In his letter he states himself to be, what undoubtedly he is, a most competent witness to this point. After speaking of the war with Hyder Ali in 1768 and 1769; and of other measures which he censures (whether right or wrong it signifies nothing) and into which he says he had been led by the company's servants; he proceeds in this manner—"If all these things were against the real interests of the company, they are ten thousand times more against mine, and against the prosperity of my country, and the happiness of my people; for your interests and mine are the same. *What were they owing to then? to the private views of a few individuals, who have enriched themselves at the expense of your influence, and of my country; for your servants HAVE NO TRADE IN THIS COUNTRY; neither do you pay them high wages, yet in a few years they return to England with many lacks of pagodas. How can you or I account for such immense fortunes, acquired in so short a time without any visible means of getting them?*"

When he asked this question, which involves its answer, it is extraordinary that curiosity did not prompt the chancellor of the exchequer to that inquiry which might come in vain recommended to him by his own act of parliament. Does not the nabob of Arcot tell us in so many words, that there was no fair way of making the enormous sums sent by the company's servants to England? and do you imagine that there was or could be more honesty and good faith in the demands for what remained behind in India? Of what nature were the transactions with himself? If you follow the train of his information you must see, that if these great sums were at all lent, it was not property, but spoil that was lent; if not lent, the transaction was not a contract, but a fraud. Either way, if light enough could not be furnished to authorize a full condemnation of these demands, they ought to have been left to the parties who best knew and understood each others proceed-

ings. It was not necessary that the authority of government should interpose in favour of claims, whose very foundation was a defiance of that authority, and whose object and end was its entire subversion.

It may be said that this letter was written by the nabob of Arcot in a moody humour, under the influence of some chagrin. Certainly it was ; but it is in such humours that truth comes out. And when he tells you from his own knowledge, what every one must presume, from the extreme probability of the thing, whether he told it or not, one such testimony is worth a thousand that contradict that probability, when the parties have a better understanding with each other, and when they have a point to carry, that may unite them in a common deceit.

If this body of private claims of debt, real or devised, were a question, as it is falsely pretended, between the nabob of Arcot, as debtor, and Paul Benfield and his associates, as creditors, I am sure I should give myself but little trouble about it. If the hoards of oppression were the fund for satisfying the claims of bribery and speculation, who would wish to interfere between such litigants ? If the demands were confined to what might be drawn from the treasures which the company's records uniformly assert that the nabob is in possession of ; or if he had mines of gold, or silver, or diamonds (as we know that he has none) these gentlemen might break open his hoards, or dig in his mines, without any disturbance from me. But the gentlemen on the other side of the house know as well as I do, and they dare not contradict me, that the nabob of Arcot and his creditors are not adversaries, but collusive parties, and that the whole transaction is under a false colour and false names. The litigation is not, nor ever has been, between their rapacity and his hoarded riches. No ; it is between him and them combining and confederating on one side, and the publick revenues, and the miserable inhabitants of a ruined country, on the other. These are the real plaintiffs and the real defendants in the suit. Refusing

a shilling from his hoards for the satisfaction of any demand, the nabob of Arcot is always ready, nay, he earnestly, and with eagerness and passion, contends for delivering up to these pretended creditors his territory and his subjects. It is therefore not from treasuries and mines, but from the food of your unpaid armies, from the blood withheld from the veins, and whipt out of the backs of the most miserable of men, that we are to pamper extortion, usury, and peculation, under the false names of debtors and creditors of state.

The great patron of these creditors (to whose honour they ought to erect statues) the right honourable gentleman,* in stating the merits which recommended them to his favour, has ranked them under three grand divisions. The first, the creditors of 1767; then the creditors of the cavalry loan; and lastly, the creditors of the loan in 1777. Let us examine them, one by one, as they pass in review before us.

The first of these loans, that of 1767, he insists, had an indisputable claim upon the publick justice. The creditors, he affirms, lent their money publickly; they advanced it with the express knowledge and approbation of the company; and it was contracted at the moderate interest of ten per cent. In this loan the demand is, according to him, not only just, but meritorious in a very high degree; and one would be inclined to believe he thought so, because he has put it last in the provision he has made for these claims.

I readily admit this debt to stand the fairest of the whole; for whatever may be my suspicions concerning a part of it, I can convict it of nothing worse than the most enormous usury. But I can convict upon the spot the right honourable gentleman, of the most daring misrepresentation in every one fact, without any exception, that he has alleged in defence of this loan, and of his own conduct with regard to it. I will show you that this debt was never con-

* Mr. Dundas.

tracted with the knowledge of the company; that it had not their approbation; that they received the first intelligence of it with the utmost possible surprise, indignation, and alarm.

So far from being previously apprized of the transaction from its origin, that it was two years before the court of directors obtained any official intelligence of it. "The dealings of the servants with the nabob were concealed from the first, until they were found out" (says Mr. Sayer, the company's counsel) "by the report of the country." The presidency, however, at last thought proper to send an official account. On this the directors tell them, "to your great reproach it has been *concealed from us*. We cannot but suspect this debt to have had its weight in *your proposed aggrandizement of Mahomed Ali* [the nabob of Arcot]; but whether it has or has not, certain it is, you are guilty of a high breach of duty in *concealing* it from us.

These expressions, concerning the ground of the transaction, its effect, and its clandestine nature, are in the letters, bearing date March 17, 1769. After receiving a more full account on the 23d March, 1770, they state, that "Messrs. John Pybus, John Call, and James Bouchier, as trustees for themselves and others of the nabob's private creditors, had proved a deed of assignment upon the nabob and his son of FIFTEEN districts of the nabob's country, the revenues of which yielded, in time of peace, eight lacks of pagodas [320,000l. sterling] annually; and likewise an assignment of the yearly tribute paid the nabob from the rajah of Tanjore, amounting to four lacks of rupees [40,000l.]" The territorial revenue, at that time possessed by these gentlemen, without the knowledge or consent of their masters, amounted to three hundred and sixty thousand pounds sterling annually. They were making rapid strides to the entire possession of the country, when the directors, whom the right honourable gentleman states as having authorized these proceedings, were kept in such profound ignorance of this royal acquisition of territo-

rial revenue by their servants, that in the same letter they say, "this assignment was obtained by *three of the members of your board*, in January 1767, yet we do not find the *least trace* of it upon your consultations, until August 1768, nor do any of your letters to us afford any information relative to such transactions, till the 1st of November 1768. By your last letters of the 8th of May, 1769, you bring the whole proceedings to light in one view."

As to the previous knowledge of the company, and its sanction to the debts, you see that this assertion of that knowledge is utterly unfounded. But did the directors approve of it, and ratify the transaction when it was known? The very reverse. On the same third of March, the directors declare, "upon an *impartial examination* of the whole conduct of our late governour and council of Fort George [Madras] and on the fullest consideration, that the said governour and council have, *in notorious violation of the trust* reposed in them, manifestly *preferred the interest of private individuals to that of the company*, in permitting the assignment of the revenues of certain valuable districts, to a very large amount, from the nabob to individuals"—and then highly aggravating their crimes, they add: "We order and direct that you do examine, in the most impartial manner, all the abovementioned transactions; and that you *punish* by suspension, degradation, dismissal, or otherwise, as to you shall seem meet, all and every such servant or servants of the company, who may by you be found guilty of any of the above offences." "We had (say the directors) the mortification to find that the servants of the company, who had been *raised supported, and owed their present opulence to the advantages* gained in such service, have in this instance most *unfaithfully betrayed* their trust, *abandoned* the company's interest, and *prostituted* its influence to accomplish the *purposes of individuals, whilst the interest of the company is almost wholly neglected*, and payment to us rendered extremely precarious." Here then is the rock of approbation of the court of direc-

tors, on which the right honourable gentleman says this debt was founded. Any member, Mr. Speaker, who should come into the house, on my reading this sentence of condemnation of the court of directors against their unfaithful servants, might well imagine that he had heard a harsh, severe, unqualified invective against the present ministerial board of control. So exactly do the proceedings of the patrons of this abuse tally with those of the actors in it, that the expressions used in the condemnation of the one, may serve for the reprobation of the other, without the change of a word.

To read you all the expressions of wrath and indignation fulminated in this despatch against the meritorious creditors of the right honourable gentleman, who, according to him, have been so fully approved by the company, would be to read the whole.

The right honourable gentleman, with an address peculiar to himself, every now and then slides in the presidency of Madras, as synonymous to the company. That the presidency did approve the debt, is certain. But the right honourable gentleman, as prudent in suppressing, as skilful in bringing forward his matter, has not chosen to tell you that the presidency were the very persons guilty of contracting this loan; creditors themselves, and agents and trustees, for all the other creditors. For this, the court of directors accuse them of breach of trust; and for this, the right honourable gentleman considers them as perfectly good authority for those claims. It is pleasant to hear a gentleman of the law quote the approbation of creditors as an authority for their own debt.

How they came to contract the debt to themselves, how they came to act as agents for those whom they ought to have controlled, is for your inquiry. The policy of this debt was announced to the court of directors, by the very persons concerned in creating it. "Till very lately," (say the presidency) "the nabob placed his dependence on the company. Now

he has been taught by ill advisers, that an interest out of doors may stand him in good stead. He has been made to believe that *his private creditors have power and interest to overrule the court of directors.*"

The nabob was not misinformed. The private creditors instantly qualified a vast number of votes; and having made themselves masters of the court of proprietors, as well as extending a powerful cabal in other places as important, they so completely overturned the authority of the court of directors at home and abroad, that this poor baffled government was soon obliged to lower its tone. It was glad to be admitted into partnership with its own servants. The court of directors establishing the debt which they had reprobated as a breach of trust, and which was planned for the subversion of their authority, settled its payments on a par with those of the publick; and even so, were not able to obtain peace or even equality in their demands. All the consequences lay in a regular and irresistible train. By employing their influence for the recovery of this debt, their orders, issued in the same breath, against creating new debts, only animated the strong desires of their servants to this prohibited prolifick sport, and it soon produced a swarm of sons and daughters, not in the least degenerated from the virtue of their parents.

From that moment, the authority of the court of directors expired in the Carnatick, and every where else. "Every man," says the presidency, "who opposes the government and its measures, finds an immediate countenance from the nabob; even our discarded officers, however unworthy, are received into the nabob's service." It was indeed a matter of no wonderful sagacity to determine whether the court of directors, with their miserable salaries to their servants, of four or five hundred pounds a year, or the distributor of millions, was most likely to be obeyed. It was an invention beyond the imagination of all the speculatists of our speculating age, to see a government quietly settled in one and the same town, composed of two distinct members; one to pay scan-

tily for obedience, and the other to bribe high for rebellion and revolt.

The next thing which recommends this particular debt to the right honourable gentleman is, it seems, the moderate interest of ten *per cent.* It would be lost labour to observe on this assertion. The nabob, in a long apologetick letter for the transaction between him and the body of the creditors, states the fact, as I shall state it to you. In the accumulation of this debt, the first interest paid was from thirty to thirty-six *per cent.* it was then brought down to twenty-five *per cent.* at length it was reduced to twenty; and there it found its rest. During the whole process, as often as any of these monstrous interests fell into an arrear (into which they were continually falling) the arrear, formed into a new capital, was added to the old, and the same interest of twenty *per cent.* accrued upon both. The company, having got some scent of the enormous usury which prevailed at Madras, thought it necessary to interfere, and to order all interests to be lowered to ten *per cent.* This order, which contained no exception, though it by no means pointed particularly to this class of debts, came like a thunderclap on the nabob. He considered his political credit as ruined; but to find a remedy to this unexpected evil, he again added to the old principal twenty *per cent.* interest accruing for the last year. Thus a new fund was formed; and it was on that accumulation of various principals, and interests heaped upon interests, not on the sum originally lent, as the right honourable gentleman would make you believe, that ten *per cent.* was settled on the whole.

When you consider the enormity of the interest at which these debts were contracted, and the several interests added to the principal, I believe you will not think me so sceptical, if I should doubt, whether for this debt of 880,000*l.* the nabob ever saw 100,000*l.* in real money. The right honourable gentleman suspecting, with all his absolute dominion over fact, that he never will be able to defend even

this venerable patriarchal job, though sanctified by its numerous issue, and hoary with prescriptive years, has recourse to recrimination, the last resource of guilt. He says that this loan of 1767 was provided for in Mr. Fox's India bill; and judging of others by his own nature and principles, he more than insinuates, that this provision was made, not from any sense of merit in the claim, but from partiality to general Smith, a proprietor, and an agent for that debt. If partiality could have had any weight against justice and policy, with the then ministers and their friends, general Smith had titles to it. But the right honourable gentleman knows as well as I do, that general Smith was very far from looking on himself as partially treated in the arrangements of that time; indeed what man dared to hope for private partiality in that sacred plan for relief to nations?

It is not necessary that the right honourable gentleman should sarcastically call that time to our recollection. Well do I remember every circumstance of that memorable period. God forbid I should forget it. O illustrious disgrace! O victorious defeat! may your memorial be fresh and new to the latest generations! May the day of that generous conflict be stamped in characters never to be cancelled or worn out from the records of time! Let no man hear of us, who shall not hear that in a struggle against the intrigues of courts, and the perfidious levity of the multitude, we fell in the cause of honour, in the cause of our country, in the cause of human nature itself! But if fortune should be as powerful over fame, as she has been prevalent over virtue, at least our conscience is beyond her jurisdiction. My poor share in the support of that great measure, no man shall ravish from me. It shall be safely lodged in the sanctuary of my heart; never, never to be torn from thence, but with those holds that grapple it to life.

I say, I well remember that bill, and every one of its honest and its wise provisions. It is not true that this debt was ever protected or enforced, or

any revenue whatsoever set apart for it. It was left in that bill just where it stood; to be paid or not to be paid out of the nabob's private treasures, according to his own discretion. The company had actually given it their sanction; though always relying for its validity on the sole security of the faith of him who without their knowledge or consent entered into the original obligation. It had no other sanction; it ought to have had no other. So far was Mr. Fox's bill for providing *funds* for it, as this ministry have wickedly done for this, and for ten times worse transactions, out of the publick estate, that an express clause immediately preceded, positively forbidding any British subject from receiving assignments upon any part of the territorial revenue, on any pretence whatsoever.

You recollect, Mr. Speaker, that the chancellor of the exchequer strongly professed to retain every part of Mr. Fox's bill, which was intended to prevent abuse; but in *his* India bill, which (let me do justice) is as able and skilful a performance for its own purposes, as ever issued from the wit of man, pre-meditating this iniquity—*hoc ipsum ut strueret Trojamque aperiret Achivis*, expunged this essential clause, broke down the fence which was raised to cover the publick property against the rapacity of his partisans, and thus levelling every obstruction, he made a firm, broad highway for sin and death, for usury and oppression, to renew their ravages throughout the devoted revenues of the Carnatick.

The tenour, the policy, and the consequences of this debt of 1767, are, in the eyes of ministry, so excellent, that its merits are irresistible; and it takes the lead to give credit and countenance to all the rest. Along with this chosen body of heavy-armed infantry, and to support it, in the line, the right honourable gentleman has stationed his corps of black cavalry. If there be any advantage between this debt and that of 1769, according to him the cavalry debt has it. It is not a subject of defence; it is a theme of panegyrick. Listen to the right honourable gentleman, and you

will find it was contracted to save the country ; to prevent mutiny in armies ; to introduce economy in revenues ; and for all these honourable purposes, it originated at the express desire, and by the representative authority of the company itself.

First, let me say a word to the authority. This debt was contracted not by the authority of the company, not by its representatives (as the right honourable gentleman has the unparalleled confidence to assert) but in the ever memorable period of 1777, by the usurped power of those who rebelliously, in conjunction with the nabob of Arcot, had overturned the lawful government of Madras. For that rebellion, this house unanimously directed a publick prosecution. The delinquents, after they had subverted government, in order to make themselves a party to support them in their power, are universally known to have dealt jobs about to the right and to the left, and to any who were willing to receive them. This usurpation, which the right honourable gentleman well knows, was brought about by and for the great mass of these pretended debts, is the authority which is set up by him to represent the company ; to represent that company which, from the first moment of their hearing of this corrupt and fraudulent transaction to this hour, have uniformly disowned and disavowed it.

So much for the authority. As to the facts, partly true, and partly colourable, as they stand recorded, they are in substance these.—The nabob of Arcot, as soon as he had thrown off the superiority of this country by means of these creditors, kept up a great army which he never paid. Of course, his soldiers were generally in a state of mutiny. The usurping council say that they laboured hard with their master the nabob, to persuade him to reduce these mutinous and useless troops. He consented ; but as usual, pleaded inability to pay them their arrears. Here was a difficulty. The nabob had no money ; the company had no money ; every publick supply was empty. But there was one resource which no season has ever yet dried up in that climate. The

~~sepoys~~ were at hand ; that is, private English money-jobbers offered their assistance. Messieurs Taylor, Majendie and Call, proposed to advance the small sum of 160,000*l.* to pay off the nabob's black cavalry, provided the company's authority was given for their loan. This was the great point of policy always aimed at, and pursued through a hundred devices, by the servants at Madras. The presidency, who themselves had no authority for the functions they presumed to exercise, very readily gave the sanction of the company to those servants who knew that the company, whose sanction was demanded, had positively prohibited all such transactions.

However, so far as the reality of the dealing goes, all is hitherto fair and plausible ; and here the right honourable gentleman concludes, with commendable prudence, his account of the business. But here it is I shall beg leave to commence my supplement : for the gentleman's discreet modesty has led him to cut the thread of the story somewhat abruptly. One of the most essential parties is quite forgotten. Why should the episode of the poor nabob be omitted ? When that prince chooses it, nobody can tell his story better. Excuse me, if I apply again to my book, and give it you from the first hand ; from the nabob himself.

" Mr. Stratton became acquainted with this, and got Mr. Taylor and others to lend me four lacks of pagodas towards discharging the arrears of pay of my troops. Upon this, I wrote a letter of thanks to Mr. Stratton ; and upon the faith of this money being paid immediately, I ordered many of my troops to be discharged by a certain day, and lessened the number of my servants. Mr. Taylor, &c. some time after acquainted me, that they had no ready money, but they would grant teeps payable in four months. This astonished me ; for I did not know what might happen, when the sepoys were dismissed from my service. I begged of Mr. Taylor and the others to pay this sum to the officers of my regiments at the time they mentioned ; and desired the officers, at the

same time, to pacify and persuade the men belonging to them, that their pay would be given to them *at the end of four months*; and that till those arrears were discharged, their pay should be continued to them. *Two years* are nearly expired since that time, but Mr. Taylor has not yet entirely discharged the arrears of those troops, and I am obliged to continue their pay from that time till this. I hoped to have been able, by this expedient, to have lessened the number of my troops, and discharged the arrears due to them, considering the trifle of interest to Mr. Taylor, and the others, as no great matter; but instead of this *I am oppressed with the burthen of pay due to those troops; and the interest, which is going on to Mr. Taylor from the day the teeps were granted to him.*" What I have read to you is an extract of a letter from the nabob of the Carnatick to governour Rumbold, dated the 22d, and received the 24th of March 1779.

Suppose his highness not to be well broken in to things of this kind, it must indeed surprise so known and established a bond-vender, as the nabob of Arcot, one who keeps himself the largest bond warehouse in the world, to find that he was now to receive in kind; not to take money for his obligations, but to give his bond in exchange for the bond of Messieurs Taylor, Majendie and Call, and to pay besides, a good smart interest, legally *12 per cent.* [in reality perhaps twenty, or twenty-four *per cent.*] for this exchange of paper. But his troops were not to be so paid, or so disbanded. They wanted bread, and could not live by cutting and shuffling of bonds. The nabob still kept the troops in service, and was obliged to continue, as you have seen, the whole expense, to exonerate himself, from which he became indebted to the soucars.

Had it stood here, the transaction would have been of the most audacious strain of fraud and usury, perhaps ever before discovered, whatever might have been practised and concealed. But the same authority (I mean the nabob's) brings before you something if possible more striking. He states, that for this their

paper, he immediately handed over to these gentlemen something very different from paper; that is, the receipt of a territorial revenue, of which it seems they continued as long in possession as the nabob himself continued in possession of any thing. Their payments, therefore, not being to commence before the end of four months, and not being completed in two years, it must be presumed (unless they proved the contrary) that their payments to the nabob were made out of the revenues they had received from his assignment. Thus, they condescended to accumulate a debt of 160,000*l.* with an interest of 12 *per cent.* in compensation for a lingering payment to the nabob of 160,000*l.* of his own money.

Still we have not the whole: about two years after the assignment of those territorial revenues to these gentlemen, the nabob receives a remonstrance from his chief manager, in a principal province, of which this is the tenour:—"The *entire* revenue of those districts is by your highness's order set apart to discharge the tunkaws [assignments] granted to the Europeans. The gomastahs [agents] of Mr. Taylor, to Mr. De Fries, are there in order to collect those tunkaws; and as they receive *all* the revenue that is collected, your highness's troops have *seven or eight months pay due*, which they cannot receive, and are thereby reduced to the greatest *distress*. *In such times*, it is highly necessary to provide for the sustenance of the troops that they may be ready to exert themselves in the service of your highness."

Here, Sir, you see how these causes and effects act upon one another. One body of troops mutinies for want of pay; a debt is contracted to pay them; and they still remain unpaid. A territory destined to pay other troops, is assigned for this debt; and these other troops fall into the same state of indigence and mutiny with the first. Bond is paid by bond; arrear is turned into new arrear; usury engenders new usury; mutiny suspended in one quarter, starts up in another; until all the revenues, and all the establishments are entangled into one inextricable knot of confusion,

from which they are only disengaged by being entirely destroyed. In that state of confusion, in a very few months after the date of the memorial I have just read to you, things were found, when the nabob's troops, famished to feed English soucars, instead of defending the country, joined the invaders, and deserted in entire bodies to Hyder Ali.

The manner in which this transaction was carried on, shows that good examples are not easily forgot, especially by those who are bred in a great school. One of those splendid examples, give me leave to mention at a somewhat more early period, because one fraud furnishes light to the discovery of another, and so on, until the whole secret of mysterious iniquity bursts upon you in a blaze of detection. The paper I shall read you, is not on record. If you please, you may take it on my word. It is a letter written from one of undoubted information in Madras, to Sir John Clavering, describing the practice that prevailed there, whilst the company's allies were under sale, during the time of governour Winch's administration.

" — One mode," says Clavering's correspondent, "of amassing money at the nabob's cost is curious. He is generally in arrears to the company. Here the governour, being cash-keeper, is generally on good terms with the banker, who manages matters thus: The governour presses the nabob for the balance due from him; the nabob flies to his banker for relief; the banker engages to pay the money, and grants his notes accordingly, which he puts in the cash-book as ready money; the nabob pays him an interest for it at *two and three per cent. per mensem*, till the tunkaws he grants on the particular districts for it are paid. Matters in the mean time are so managed, that there is no call for this money for the company's service, till the tunkaws become due. By this means not a cash is advanced by the banker, though he receives a heavy interest from the nabob, which is divided as lawful spoil."

Here Mr. Speaker, you have the whole art and mystery, the true freemason secret of the profession

of *soucaring*; by which a few innocent, inexperienced young Englishmen, such as Mr. Paul Benfield, for instance, without property upon which any one would lend to themselves a single shilling, are enabled at once to take provinces in mortgage, to make princes their debtors, and to become creditors for millions.

But it seems the right honourable gentleman's favourite soucar cavalry, have proved the payment before the Mayor's court at Madras! Have they so? Why then defraud our anxiety and their characters of that proof? Is it not enough that the charges which I have laid before you, have stood on record against these poor injured gentlemen for eight years? Is it not enough that they are in print by the orders of the East-India company for five years? After these gentlemen have born all the odium of this publication, and all the indignation of the directors, with such unexampled equanimity, now that they are at length stimulated into feeling, are you to deny them their just relief? But will the right honourable gentleman be pleased to tell us, how they came not to give this satisfaction to the court of directors, their lawful masters, during all the eight years of this litigated claim? Were they not bound, by every tie that can bind man, to give them this satisfaction? This day, for the first time, we hear of the proofs. But when were these proofs offered? In what cause? Who were the parties? Who inspected? Who contested this belated account? Let us see something to oppose to the body of record which appears against them. The mayor's court! the mayor's court! Pleasant! Does not the honourable gentleman know, that the first corps of creditors [the creditors of 1767] stated it as a sort of hardship to them, that they could not have justice at Madras, from the impossibility of their supporting their claims in the mayor's court? Why? because, say they, the members of that court were themselves creditors, and therefore could not sit as judges. Are we ripe to say that no creditor under similar circumstances

was member of the court, when the payment which is the ground of this cavalry debt was put in proof? Nay, are we not in a manner compelled to conclude, that the court was so constituted, when we know there is scarcely a man in Madras, who has not some participation in these transactions? It is a shame to hear such proofs mentioned, instead of the honest, vigorous scrutiny which the circumstances of such an affair so indispensably call for.

But his majesty's ministers, indulgent enough to other scrutinies, have not been satisfied with authorizing the payment of this demand without such inquiry as the act has prescribed; but they have added the arrear of twelve *per cent.* interest, from the year 1777 to the year 1784, to make a new capital, raising thereby 160 to 294,000*l.* Then they charge a new twelve *per cent.* on the whole from that period, for a transaction, in which it will be a miracle if a single penny will be ever found really advanced from the private stock of the pretended creditors.

In this manner, and at such an interest, the ministers have thought proper to dispose of 294,000*l.* of the publick revenues, for what is called the *cavalry loan*. After despatching this, the right honourable gentleman leads to battle his last grand division, the consolidated debt of 1777. But having exhausted all his panegyrick on the two first, he has nothing at all to say in favour of the last. On the contrary, he admits that it was contracted in defiance of the company's orders, without even the pretended sanction of any pretended representatives. Nobody, indeed, has yet been found hardy enough to stand forth avowedly in its defence. But it is little to the credit of the age, that what has not plausibility enough to find an advocate, has influence enough to obtain a protector. Could any man expect to find that protector any where? But what must every man think, when he finds that protector in the chairman of the committee of secrecy,* who had published to the

* Right honourable Henry Dundas.

house, and to the world, the facts that condemn these debts—the orders that forbid the incurring of them—the dreadful consequences which attended them. Even in his official letter, when he tramples on his parliamentary report, yet his general language is the same. Read the preface to this part of the ministerial arrangement, and you would imagine that this debt was to be crushed, with all the weight of indignation which could fall from a vigilant guardian of the publick treasury, upon those who attempted to rob it. What must be felt by every man who has feeling, when, after such a thundering preamble of condemnation, this debt is ordered to be paid without any sort of inquiry into its authenticity? without a single step taken to settle even the amount of the demand? without an attempt so much as to ascertain the real persons claiming a sum, which rises in the accounts from one million three hundred thousand pounds sterling to two millions four hundred thousand pounds principal money? without an attempt made to ascertain the proprietors, of whom no list has ever yet been laid before the court of directors; of proprietors who are known to be in a collusive shuffle, by which they never appear to be the same in any two lists, handed about for their own particular purposes?

My honourable friend who made you the motion, has sufficiently exposed the nature of this debt. He has stated to you that *its own agents* in the year 1781, in the arrangement *they proposed* to make at Calcutta, were satisfied to have twenty-five *per cent.* at once struck off from the capital of a great part of this debt; and prayed to have a provision made for this reduced principal, without any interest at all. This was an arrangement of their *own*, an arrangement made by those who best knew the true constitution of their own debt; who knew how little favour it merited; and how little hopes they had to find any persons in authority abandoned enough to support it as it stood.

But what corrupt men, in the fond imaginations of a sanguine avarice, had not the confidence to propose, they have found a chancellor of the exchequer in England hardy enough to undertake for them. He has cheered their drooping spirits. He has thanked the speculators for not despairing of their commonwealth. He has told them they were too modest. He has replaced the twenty-five *per cent.* which, in order to lighten themselves, they had abandoned in their conscious terror. Instead of cutting off the interest, as they had themselves consented to do, with the fourth of the capital, he has added the whole growth of four years' usury of twelve *per cent.* to the first overgrown principal; and has again grafted on this meliorated stock a perpetual annuity of six *per cent.* to take place from the year 1781. Let no man hereafter talk of the decaying energies of nature. All the acts and monuments in the records of speculation; the consolidated corruption of ages; the patterns of exemplary plunder in the heroick times of Roman iniquity, never equalled the gigantick corruption of this single act. Never did Nero, in all the insolent prodigality of despotism, deal out to his pretorian guards a donation fit to be named with the largess showered down by the bounty of our chancellor of the exchequer on the faithful band of his Indian sepoys.

The right honourable gentleman* lets you freely and voluntarily into the whole transaction. So perfectly has his conduct confounded his understanding, that he fairly tells you, that through the course of the whole business he has never conferred with any but the agents of the pretended creditors. After this, do you want more to establish a secret understanding with the parties? to fix, beyond a doubt, their collusion and participation in a common fraud?

If this were not enough, he has furnished you with other presumptions that are not to be shaken. It is one of the known indications of guilt to stagger and prevaricate in a story; and to vary in the motives that

* Mr. Dundas.

are assigned to conduct. Try these ministers by this rule. In their official despatch, they tell the presidency of Madras, that they have established the debt for two reasons; first, because the nabob (the party indebted) does not dispute it; secondly, because it is mischievous to keep it longer afloat; and that the payment of the European creditors will promote circulation in the country. These two motives (for the plainest reasons in the world) the right honourable gentleman has this day thought fit totally to abandon. In the first place, he rejects the authority of the nabob of Arcot. It would indeed be pleasant to see him adhere to this exploded testimony. He next, upon grounds equally solid, abandons the benefits of that circulation, which was to be produced by drawing out all the juices of the body. Laying aside, or forgetting these pretences of his despatch, he has just now assumed a principle totally different, but to the full as extraordinary. He proceeds upon a supposition, that many of the claims may be fictitious. He then finds, that in a case where many valid and many fraudulent claims are blended together, the best course for their discrimination is indiscriminately to establish them all. He trusts (I suppose) as there may not be a fund sufficient for every description of creditors, that the best warranted claimants will exert themselves in bringing to light those debts which will not bear an inquiry. What he will not do himself, he is persuaded will be done by others; and for this purpose he leaves to any person a general power of excepting to the debt. This total change of language, and prevarication in principle, is enough, if it stood alone, to fix the presumption of unfair dealing. His despatch assigns motives of policy, concord, trade, and circulation. His speech proclaims discord and litigations; and proposes, as the ultimate end, detection.

But he may shift his reasons, and wind, and turn as he will, confusion waits him at all his doubles. Who will undertake this detection? Will the nabob? But the right honourable gentleman has himself this moment told us, that no prince of the country can by any

motive be prevailed upon to discover any fraud that is practised upon him by the company's servants. He says what (with the exception of the complaint against the cavalry loan) all the world knows to be true: and without that prince's concurrence, what evidence can be had of the fraud of any the smallest of these demands? The ministers never authorized any person to enter into his exchequer, and to search his records. Why then this shameful and insulting mockery of a pretended contest? Already contests for a preference have arisen among these rival bond creditors. Has not the company itself struggled for a preference for years, without any attempt at detection of the nature of those debts with which they contended? Well is the nabob of Arcot attended to in the only specifick complaint he has ever made. He complained of unfair dealing in the cavalry loan. It is fixed upon him with interest on interest; and this loan is excepted from all power of litigation.

This day, and not before, the right honourable gentleman thinks that the general establishment of all claims is the surest way of laying open the fraud of some of them. In India this is a reach of deep policy. But what would be thought of this mode of acting on a demand upon the treasury in England? Instead of all this cunning, is there not one plain way open, that is, to put the burthen of the proof on those who make the demand? Ought not ministry to have said to the creditors: "The person who admits your debt stands excepted to as evidence; he stands charged as a collusive party, to hand over the publick revenues to you for sinister purposes? You say, you have a demand of some millions on the Indian treasury; prove that you have acted by lawful authority; prove at least that your money has been *bona fide* advanced; entitle yourself to my protection, by the fairness and fulness of the communications you make." Did an honest creditor ever refuse that reasonable and honest test?

There is little doubt, that several individuals have been seduced by the purveyors to the nabob of Arcot to put their money (perhaps the whole of honest

and laborious earnings) into their hands, and that at such high interest, as, being condemned at law, leaves them at the mercy of the great managers whom they trusted. These seduced creditors are probably persons of no power or interest, either in England or India, and may be just objects of compassion. By taking, in this arrangement, no measures for discrimination and discovery; the fraudulent and the fair are in the first instance confounded in one mass. The subsequent selection and distribution is left to the nabob. With him the agents and instruments of his corruption, whom he sees to be omnipotent in England, and who may serve him in future, as they have done in times past, will have precedence, if not an exclusive preference. These leading interests domineer, and have always domineered, over the whole. By this arrangement, the persons seduced are made dependent on their seducers; honesty (comparative honesty at least) must become of the party of fraud, and must quit its proper character, and its just claims, to entitle itself to the alms of bribery and speculation.

But be these English creditors what they may, the creditors, most certainly not fraudulent, are the natives, who are numerous and wretched indeed: by exhausting the whole revenues of the Carnatick; nothing is left for them. They lent *bona fide*; in all probability they were even forced to lend, or to give goods and service for the nabob's obligations. They had no trust to carry to his market. They had no faith of alliances to sell. They had no nations to betray to robbery and ruin. They had no lawful government seditiously to overturn; nor had they a governour, to whom it is owing that you exist in India, to deliver over to captivity, and to death, in a shameful prison.*

These were the merits of the principal part of the debt of 1777, and the universally conceived cause of its growth; and thus the unhappy natives are de-

* Lord Pigot.

prived of every hope of payment for their real debts, to make provision for the arrears of unsatisfied bribery and treason. You see in this instance, that the presumption of guilt is not only no exception to the demands on the publick treasury ; but with these ministers it is a necessary condition to their support. But that you may not think this preference solely owing to their known contempt of the natives, who ought with every generous mind to claim their first charities ; you will find the same rule religiously observed with Europeans too. Attend, sir, to this decisive case.—Since the beginning of the war, besides arrears of every kind, a bond debt has been contracted at Madras, uncertain in its amount, but represented from four hundred thousand pound to a million sterling. It stands only at the low interest of eight *per cent.* Of the legal authority on which this debt was contracted, of its purposes for the very being of the state, of its publicity and fairness, no doubt has been entertained for a moment. For this debt, no sort of provision whatever has been made. It is rejected as an outcast, whilst the whole undissipated attention of the minister has been employed for the discharge of claims entitled to his favour by the merits we have seen.

I have endeavoured to find out, if possible, the amount of the whole of those demands, in order to see how much, supposing the country in a condition to furnish the fund, may remain to satisfy the publick debt and the necessary establishments. But I have been foiled in my attempt. About one fourth, that is about 220,000*l.* of the loan of 1767, remains unpaid. How much interest is in arrear, I could never discover ; seven or eight years at least, which would make the whole of that debt about 396,000*l.* This stock, which the ministers in their instructions to the governour of Madras state as the least exceptionable, they have thought proper to distinguish by a marked severity, leaving it the only one, on which the interest is not added to the principal, to beget a new interest.

The cavalry loan, by the operation of the same authority, is made up to 294,000*l.* and this 294,000*l.*

made up of principal and interest, is crowned with a new interest of twelve *per cent.*

What the grand loan, the bribery loan of 1777, may be, is amongst the deepest mysteries of state. It is probably the first debt ever assuming the title of consolidation, that did not express what the amount of the sum consolidated was. It is little less than a contradiction in terms. In the debt of the year 1767, the sum was stated in the act of consolidation, and made to amount to 880,000*l.* capital. When this consolidation of 1777 was first announced at the Durbar, it was represented authentically at 2,400,000*l.* In that, or rather in a higher state, sir Thomas Rumbold found and condemned it. It afterwards fell into such a terroure, as to sweat away a million of its weight at once; and it sunk to 1,400,000. However, it never was without a resource for recruiting it to its old plumpness. There was a sort of floating debt of about 4 or 500,000*l.* more, ready to be added, as occasion should require.

In short, when you pressed this sensitive plant, it always contracted its dimensions. When the rude hand of inquiry was withdrawn, it expanded in all the luxuriant vigour of its original vegetation. In the treaty of 1781, the whole of the nabob's debt to private Europeans is, by Mr. Sullivan, agent to the nabob and the creditors, stated at 2,800,000*l.* which (if the cavalry loan, and the remains of the debt of 1767, be subtracted) leaves it nearly at the amount originally declared at the Durbar, in 1777. But then there is a private instruction to Mr. Sullivan, which it seems will reduce it again to the lower standard of 1,400,000*l.* Failing in all my attempts, by a direct account, to ascertain the extent of the capital claimed (where in all probability no capital was ever advanced) I endeavoured, if possible, to discover it by the interest which was to be paid. For that purpose, I looked to the several agreements for assigning the territories of the Carnatick to secure the principal and interest of this debt. In one of them I found in a sort of postscript, by way of an

additional remark (not in the body of the obligation) the debt represented at 1,400,000*l*. But when I computed the sums to be paid for interest by instalments in another paper, I found they produced the interest of two millions, at twelve *per cent.* and the assignment supposed, that if these instalments might exceed, they might also fall short of the real provision for that interest.

Another instalment bond was afterwards granted. In that bond the interest exactly tallies with a capital of 1,400,000*l*. But pursuing this capital through the correspondence, I lost sight of it again, and it was asserted that this instalment bond was considerably short of the interest that ought to be computed to the time mentioned. Here are, therefore, two statements of equal authority, differing at least a million from each other; and as neither persons claiming, nor any special sum as belonging to each particular claimant, is ascertained in the instruments of consolidation, or in the instalment bonds, a large scope was left to throw in any sums for any persons, as their merits in advancing the interest of that loan might require; a power was also left for reduction, in case a harder hand, or more scanty funds, might be found to require it. Stronger grounds for a presumption of fraud never appeared in any transaction. But the ministers, faithful to the plan of the interested persons, whom alone they thought fit to confer with on this occasion, have ordered the payment of the whole mass of these unknown unliquidated sums. without an attempt to ascertain them. On this conduct, sir, I leave you to make your own reflections.

It is impossible (at least I have found it impossible) to fix on the real amount of the pretended debts with which your ministers have thought proper to load the Carnatick. They are obscure; they shun inquiry; they are enormous. That is all you know of them.

That you may judge what chance any honourable and useful end of government has for a provision that comes in for the leavings of these gluttonous demands,

I must take it on myself to bring before you the real condition of that abused, insulted, racked, and ruined country ; though in truth my mind revolts from it ; though you will hear it with horror ; and I confess I tremble when I think on these awful and confounding dispensations of Providence. I shall first trouble you with a few words as to the cause.

The great fortunes made in India in the beginnings of conquest, naturally excited an emulation in all the parts, and through the whole succession of the company's service. But in the company it gave rise to other sentiments. They did not find the new channels of acquisition flow with equal riches to them. On the contrary, the high flood-tide of private emolument was generally in the lowest ebb of their affairs. They began also to fear, that the fortune of war might take away what the fortune of war had given. Wars were accordingly discouraged by repeated injunctions and menaces ; and that the servants might not be bribed into them by the native princes, they were strictly forbidden to take any money whatsoever from their hands. But vehement passion is ingenious in resources. The company's servants were not only stimulated, but better instructed by the prohibition. They soon fell upon a contrivance which answered their purposes far better than the methods which were forbidden ; though in this also they violated an ancient, but they thought, an abrogated order. They reversed their proceedings. Instead of receiving presents, they made loans. Instead of carrying on wars in their own name, they contrived an authority, at once irresistible and irresponsible, in whose name they might ravage at pleasure ; and being thus freed from all restraint, they indulged themselves in the most extravagant speculations of plunder. The cabal of creditors who have been the object of the late bountiful grant from his majesty's ministers, in order to possess themselves, under the name of creditors and assignees, of every country in India, as fast as it should be conquered, inspired into the mind of the nabob of Arcot (then a dependant on the company of the humblest

order) a scheme of the most wild and desperate ambition that I believe ever was admitted into the thoughts of a man so situated. First, they persuaded him to consider himself as a principal member in the political system of Europe. In the next place they held out to him, and he readily imbibed the idea of the general empire of Indostan. As a preliminary to this undertaking, they prevailed on him to propose a tripartite division of that vast country. One part to the company; another to the Marattas; and the third to himself. To himself he reserved all the southern part of the great peninsula, comprehended under the general name of the Decan.

On this scheme of their servants, the company was to appear in the Carnatick in no other light than as contractor for the provision of armies, and the hire of mercenaries for his use, and under his direction. This disposition was to be secured by the nabob's putting himself under the guarantee of France; and by the means of that rival nation, preventing the English for ever from assuming an equality, much less a superiority in the Carnatick. In pursuance of this treasonable project (treasonable on the part of the English) they extinguished the company as a sovereign power in that part of India; they withdrew the company's garrisons out of all the forts and strongholds of the Carnatick; they declined to receive the ambassadours from foreign courts, and remitted them to the nabob of Arcot; they fell upon, and totally destroyed the oldest ally of the company, the king of Tanjore, and plundered the country to the amount of near five millions sterling; one after another, in the nabob's name, but with English force, they brought into a miserable servitude all the princes, and great independent nobility of a vast country. In proportion to these treasons and violences, which ruined the people, the fund of the nabob's debt grew and flourished.

Among the victims to this magnificent plan of universal plunder, worthy of the heroick avarice of the projectors, you have all heard (and he has made him-

self to be well remembered) of an Indian chief called Hyder Ali Khan. This man possessed the western, as the company under the name of the nabob of Arcot does the eastern division of the Carnatick. It was among the leading measures in the design of this cabal (according to their own emphatick language) to *extirpate* this Hyder Ali. They declared the nabob of Arcot to be his sovereign, and himself to be a rebel, and publickly invested their instrument with the sovereignty of the kingdom of Mysore. But their victim was not of the passive kind. They were soon obliged to conclude a treaty of peace and close alliance with this rebel, at the gates of Madras. Both before and since that treaty, every principle of policy pointed out this power as a natural alliance; and on his part, it was courted by every sort of amicable office. But the cabinet-council of English creditors would not suffer their nabob of Arcot to sign the treaty, nor even to give to a prince, at least his equal, the ordinary titles of respect and courtesy. From that time forward, a continued plot was carried on within the divan, black and white, of the nabob of Arcot, for the destruction of Hyder Ali. As to the outward members of the double, or rather treble government of Madras, which had signed the treaty, they were always prevented by some overruling influence (which they do not describe, but which cannot be misunderstood) from performing what justice and interest combined so evidently to enforce.

When at length Hyder Ali found that he had to do with men who either would sign no convention, or whom no treaty, and no signature could bind, and who were the determined enemies of human intercourse itself, he decreed to make the country possessed by these incorrigible and predestinated criminals a memorable example to mankind. He resolved, in the gloomy recesses of a mind capacious of such things, to leave the whole Carnatick an everlasting monument of vengeance; and to put perpetual desolation as a barrier between him and those against whom the faith which holds the moral elements of the world together

was no protection. He became at length so confident of his force, so collected in his might, that he made no secret whatsoever of his dreadful resolution. Having terminated his disputes with every enemy, and every rival, who buried their mutual animosities in their common detestation against the creditors of the nabob of Arcot, he drew from every quarter whatever a savage ferocity could add to his new rudiments in the arts of destruction; and compounding all the materials of fury, havock, and desolation, into one black cloud, he hung for a while on the declivities of the mountains. Whilst the authors of all these evils were idly and stupidly gazing on this menacing meteor, which blackened all their horizon, it suddenly burst, and poured down the whole of its contents upon the plains of the Carnatick.—Then ensued a scene of wo, the like of which no eye had seen, no heart conceived, and which no tongue can adequately tell. All the horrors of war before known or heard of were mercy to that new havock. A storm of universal fire blasted every field, consumed every house, destroyed every temple. The miserable inhabitants flying from their flaming villages, in part were slaughtered; others, without regard to sex, to age, to the respect of rank, or sacredness of function; fathers torn from children, husbands from wives, enveloped in a whirlwind of cavalry, and amidst the goading spears of drivers, and the trampling of pursuing horses, were swept into captivity, in an unknown and hostile land. Those who were able to evade this tempest, fled to the walled cities. But escaping from fire, sword, and exile, they fell into the jaws of famine.

The alms of the settlement, in this dreadful exigency, were certainly liberal; and all was done by charity that private charity could do: but it was a people in beggary; it was a nation which stretched out its hands for food. For months together these creatures of sufferance, whose very excess and luxury in their most plenteous days, had fallen short of the allowance of our austere fasts, silent, patient, resigned, without sedition or disturbance, almost without com-

plaint, perished by a hundred a day in the streets of Madras; every day seventy at least laid their bodies in the streets, or on the glacis of Tanjore, and expired of famine in the granary of India. I was going to awake your justice towards this unhappy part of our fellow citizens, by bringing before you some of the circumstances of this plague of hunger. Of all the calamities which beset and waylay the life of man, this comes the nearest to our heart, and is that wherein the proudest of us all feels himself to be nothing more than he is: but I find myself unable to manage it with decorum; these details are of a species of horror so nauseous and disgusting; they are so degrading to the sufferers and to the hearers; they are so humiliating to human nature itself, that, on better thoughts, I find it more advisable to throw a pall over this hideous object, and to leave it to your general conceptions.

For eighteen months, without intermission, this destruction raged from the gates of Madras to the gates of Tanjore; and so completely did these masters in their art, Hyder Ali, and his more ferocious son, absolve themselves of their impious vow, that when the British armies traversed, as they did the Carnatick for hundreds of miles in all directions, through the whole line of their march they did not see one man, not one woman, not one child, not one four-footed beast of any description whatever. One dead uniform silence reigned over the whole region. With the inconsiderable exceptions of the narrow vicinage of some few forts, I wish to be understood as speaking literally. I mean to produce to you more than three witnesses, above all exception, who will support this assertion in its full extent. That hurricane of war passed through every part of the central provinces of the Carnatick. Six or seven districts to the north and to the south (and these not wholly untouched) escaped the general ravage.

The Carnatick is a country not much inferior in extent to England. Figure to yourself, Mr. Speaker, the land in whose representative chair you sit; figure to yourself the form and fashion of your sweet and

cheerful country from Thames to Trent, north and south, and from the Irish to the German sea east and west, emptied and embowelled (may God avert the omen of our crimes!) by so accomplished a desolation. Extend your imagination a little further, and then suppose your ministers taking a survey of this scene of waste and desolation; what would be your thoughts if you should be informed, that they were computing how much had been the amount of the excises, how much the customs, how much the land and malt tax, in order that they should charge (take it in the most favourable light) for publick service, upon the relicks of the satiated vengeance of relentless, enemies, the whole of what England had yielded in the most exuberant seasons of peace and abundance? What would you call it? To call it tyranny, sublimed into madness, would be too faint an image; yet this very madness is the principle upon which the ministers at your right hand have proceeded in their estimate of the revenues of the Carnatick, when they were providing not supply for the establishments of its protection, but rewards for the authors of its ruin.

Every day you are fatigued and disgusted with this cant, "the Carnatick is a country that will soon recover, and become instantly as prosperous as ever." They think they are talking to innocents, who will believe that by sowing of dragons teeth, men may come up ready grown and ready armed. They who will give themselves the trouble of considering (for it requires no great reach of thought, no very profound knowledge) the manner in which mankind are increased, and countries cultivated, will regard all this raving as it ought to be regarded. In order that the people, after a long period of vexation and plunder, may be in a condition to maintain government, government must begin by maintaining them.—Here the road to economy lies not through receipt, but through expense; and in that country nature has given no short cut to your object. Men must propagate, like other animals, by the mouth. Never

did oppression light the nuptial torch; never did extortion and usury spread out the genial bed. Does any of you think that England, so wasted, would, under such a nursing attendance, so rapidly and cheaply recover? But he is meanly acquainted with either England or India, who does not know that England would a thousand times sooner resume population, fertility, and what ought to be the ultimate secretion from both, revenue, than such a country as the Carnatick.

The Carnatick is not by the bounty of nature a fertile soil. The general size of its cattle is proof enough that it is much otherwise. It is some days since I moved, that a curious and interesting map, kept in the India House, should be laid before you.* The India House is not yet in readiness to send it; I have therefore brought down my own copy, and there it lies for the use of any gentleman who may think such a matter worthy of his attention. It is, indeed, a noble map, and of noble things; but it is decisive against the golden dreams and sanguine speculations of avarice run mad. In addition to what you know must be the case in every part of the world (the necessity of a previous provision of habitation, seed, stock, capital) that map will show you, that the use of the influences of Heaven itself, are in that country a work of art. The Carnatick is refreshed by few or no living brooks or running streams, and it has rain only at a season; but its product of rice exacts the use of water subject to perpetual command. This is the national bank of the Carnatick, on which it must have a perpetual credit, or it perishes irretrievably. For that reason, in the happier times of India, a number almost incredible of reservoirs have been made in chosen places throughout the whole country; they are formed for the greater part of mounds of earth and stones, with sluices of solid masonry; the whole constructed with admirable skill and labour, and maintained at a mighty charge. In the territory

* Mr. Barnard's map of the Jaghire.

contained in that map alone. I have been at the trouble of reckoning the reservoirs, and they amount to upwards of eleven hundred, from the extent of two or three acres to five miles in circuit. From these reservoirs currents are occasionally drawn over the fields, and these watercourses again call for a considerable expense to keep them properly scoured and duly levelled. Taking the district in that map as a measure, there cannot be in the Carnatic and Tanjore fewer than ten thousand of these reservoirs of the larger and middling dimensions, to say nothing of those for domestick services, and the use of religious purifications. These are not the enterprizes of your power, nor in a style of magnificence suited to the taste of your minister. These are the monuments of real kings, who were the fathers of their people; bequeathing to a posterity which they embraced as their own. These are the grand sepulchres built by ambition; but by the ambition of an unsatiable benevolence, which, not contented with reigning in the dispensation of happiness during the contracted term of human life, had strained, with all the reachings and graspings of a vivacious mind, to extend the dominion of their bounty beyond the limits of nature, and to perpetuate themselves through generations of generations, the guardians, the protectors, the nourishers of mankind.

Long before the late invasion, the persons who are objects of the grant of publick money now before you, had so diverted the supply of the pious funds of culture and population, that every where the reservoirs were fallen into a miserable decay. But after those domestick enemies had provoked the entry of a cruel foreign foe into the country, he did not leave it until his revenge had completed the destruction begun by their avarice. Few, very few indeed, of these magazines of water that are not either totally destroyed, or cut through with such gaps, as to require a serious attention and much cost to re-establish them, as the means of present subsistence to the people, and of future revenue to the state,

What, Sir, would a virtuous and enlightened ministry do on the view of the ruins of such works before them? On the view of such a chasm of desolation as that which yawned in the midst of those countries to the north and south, which still bore some vestiges of cultivation? They would have reduced all their most necessary establishments; they would have suspended the justest payments; they would have employed every shilling derived from the producing to reanimate the powers of the unproductive parts. While they were performing this fundamental duty, whilst they were celebrating these mysteries of justice and humanity, they would have told the corps of fictitious creditors, whose crimes were their claims, that they must keep an awful distance; that they must silence their insidious tongues; that they must hold off their profane and unhallowed paws from this holy work; they would have proclaimed with a voice that should make itself heard, that on every country the first creditor is the plough; that this original, indefeasible claim supercedes every other demand.

This is what a wise and virtuous ministry would have done and said. This, therefore, is what our minister could never think of saying or doing. A ministry of another kind would have first improved the country, and have thus laid a solid foundation for future opulence and future force. But on this grand point of the restoration of the country, there is not one syllable to be found in the correspondence of our ministers, from the first to the last. They felt nothing for a land desolated by fire, sword, and famine; their sympathies took another direction. They were touched with pity for bribery, so long tormented with a fruitless itching of its palms; their bowels yearned for usury, that had long missed the harvest of its returning months;* they felt for speculation which had been for so many years raking in the dust of an empty treasury; they were melted into compassion for rapine and oppression, licking their

* Interest is rated in India by the month.

dry, parched, unbloody jaws. These were the objects of their solicitude. These were the necessities for which they were studious to provide.

To state the country and its revenues in their real condition, and to provide for those fictitious claims, consistently with the support of an army and a civil establishment, would have been impossible; therefore the ministers are silent on that head; and rest themselves on the authority of lord Macartney, who in a letter to the court of directors, written in the year 1781, speculating on what might be the result of a wise management of the countries assigned by the nabob of Arcot, rates the revenue as in time of peace, at twelve hundred thousand pound a year, as he does those of the king of Tanjore (which had not been assigned) at four hundred and fifty. On this lord Macartney grounds his calculations, and on this they choose to ground theirs. It was on this calculation that the ministry, in direct opposition to the remonstrances of the court of directors, have compelled that miserable, enslaved body, to put their hands to an order for appropriating the enormous sum of 480,000*l.* annually as a fund for paying to their rebellious servants a debt contracted in defiance of their clearest and most positive injunctions.

The authority and information of lord Macartney is held high on this occasion, though it is totally rejected in every other particular of this business, I believe I have the honour of being almost as old an acquaintance as any lord Macartney has. A constant and unbroken friendship has subsisted between us from a very early period; and, I trust, he thinks, that as I respect his character, and in general admire his conduct, I am one of those who feel no common interest in his reputation. Yet I do not hesitate wholly to disallow the calculation of 1781, without any apprehension that I shall appear to distrust his veracity or his judgment. This peace estimate of revenue was not grounded on the state of the Carnatick as it then, or as it had recently, stood. It was a statement of former and better times. There is no

doubt that a period did exist, when the large portion of the Carnatick held by the nabob of Arcot might be fairly reputed to produce a revenue to that, or to a greater amount. But the whole had so melted away by the slow and silent hostility of oppression and mismanagement, that the revenues, sinking with the prosperity of the country, had fallen to about 800,000*l.* a year, even before an enemy's horse had imprinted his hoof on the soil of the Carnatick. From that view, and independently of the decisive effects of the war which ensued, sir Eyre Coote conceived that years must pass before the country could be restored to its former prosperity and production. It was that state of revenue (namely, the actual state before the war) which the directors have opposed to lord Macartney's speculation. They refused to take the revenues for more than 800,000*l.* In this they are justified by lord Macartney himself, who, in a subsequent letter, informs the court, that his sketch is a matter of speculation; it supposes the country restored to its ancient prosperity, and the revenue to be in a course of effective and honest collection. If therefore the ministers have gone wrong, they were not decived by lord Macartney: they were deceived by no man. The estimate of the directors is nearly the very estimate furnished by the right honourable gentleman himself, and published to the world in one of the printed reports of his own committee; but as soon as he obtained his power, he chose to abandon his account. No part of his official conduct can be defended on the ground of his parliamentary information.

In this clashing of accounts and estimates, ought not the ministry, if they wished to preserve even appearances, to have waited for information of the actual result of these speculations, before they laid a charge, and such a charge, not conditionally and eventually, but positively and authoritatively, upon a country which they all knew, and which one of them had registered on the records of this house, to be wasted beyond all example, by every oppression of an abu-

sive government, and every ravage of a desolating war. But that you may discern in what manner they use the correspondence of office, and that thereby you may enter into the true spirit of the ministerial board of control, I desire you, Mr. Speaker, to remark, that through their whole controversy with the court of directors, they do not so much as hint at their ever having seen any other paper from lord Macartney, or any other estimate of revenue, than this of 1781. To this they hold. Here they take post; here they entrench themselves.

When I first read this curious controversy between the ministerial board and the court of directors, common candour obliged me to attribute their tenacious adherence to the estimate of 1781, to a total ignorance of what had appeared upon the records. But the right honourable gentleman has chosen to come forward with an uncalled-for declaration; he boastingly tells you, that he has seen, read, digested, compared every thing; and that if he has sinned, he has sinned with his eyes broad open. Since then the ministers will obstinately shut the gates of mercy on themselves, let them add to their crimes what aggravations they please. They have then (since it must be so) wilfully and corruptly suppressed the information which they ought to have produced; and for the support of speculation, have made themselves guilty of spoliation and suppression of evidence. The paper I hold in my hand, which totally overturns (for the present at least) the estimate of 1781, they have no more taken notice of in their controversy with the court of directors, than if it had no existence. It is the report made by a committee appointed at Madras, to manage the whole of the six countries assigned to the company by the nabob of Arcot. This committee was wisely instituted by lord Macartney, to remove from himself the suspicion of all improper management in so invidious a trust; and it seems to have been well chosen. This committee has made a comparative estimate of the only six districts which were in a condition to be let to farm. In one set of columns they state the

gross and net produce of the districts as let by the nabob. To that statement they oppose the terms on which the same districts were rented for five years, under their authority. Under the nabob, the gross farm was so high as 570,000*l.* sterling. What was the clear produce? Why, no more than about 250,000*l.*; and this was the whole profit to the nabob's treasury, under his own management, of all the districts which were in a condition to be let to farm on the 27th of May, 1782. Lord Macartney's leases stipulated a gross produce of no more than about 530,000*l.* but then the estimated net amount was nearly double the nabob's. It however did not then exceed 480,000*l.*; and lord Macartney's commissioners take credit for an annual revenue amounting to this clear sum. Here is no speculation; here is no inaccurate account clandestinely obtained from those who might wish, and were enabled to deceive. It is the authorized recorded state of a real recent transaction. Here is not twelve hundred thousand pound, not eight hundred. The whole revenue of the Carnatick yielded no more in May 1782 than four hundred and eighty thousand pounds; nearly the very precise sum which your minister, who is so careful of the publick security, has carried from all descriptions of establishment to form a fund for the private emolument of his creatures.

In this estimate, we see, as I have just observed, the nabob's farms rated so high as 570,000*l.* Hitherto all is well; but follow on to the effective net revenue: there the illusion vanishes; and you will not find nearly so much as half the produce. It is with reason therefore lord Macartney invariably throughout the whole correspondence, qualifies all his views and expectations of revenue, and all his plans for its application, with this indispensable condition, that the management is not in the hands of the nabob of Arcot. Should that fatal measure take place, he has over and over again told you, that he has no prospect of realizing any thing whatsoever for any publick purpose. With these weighty declara-

tions, confirmed by such a state of indisputable fact before them; what has been done by the chancellor of the exchequer and his accomplices? Shall I be believed? They have delivered over those very territories, on the keeping of which in the hands of the committee, the defence of our dominions, and what was more dear to them, possibly, their own job depended; they have delivered back again without condition, without arrangement, without stipulation of any sort for the natives of any rank, the whole of those vast countries, to many of which he had no just claim, into the ruinous mismanagement of the nabob of Arcot. To crown all, according to their miserable practice whenever they do any thing transcendently absurd, they preface this their abdication of their trust, by a solemn declaration that they were not obliged to it by any principle of policy, or any demand of justice whatsoever.

I have stated to you the estimated produce of the territories of the Carnatick, in a condition to be farmed in 1782, according to the different managements into which they might fall; and this estimate the ministers have thought proper to suppress. Since that, two other accounts have been received. The first informs us, that there has been a recovery of what is called arrear, as well as of an improvement of the revenue of one of the six provinces which were let in 1782.* It was brought about by making a new war. After some sharp actions, by the resolution and skill of colonel Fullarton, several of the petty princes of the most southerly of the unwasted provinces were compelled to pay very heavy rents and tributes, who for a long time before had not paid any acknowledgment. After this reduction, by the care of Mr. Irwin, one of the committee, that province was divided into twelve farms. This operation raised the income of that particular province; the others remain as they were first farmed. So that instead of producing only their original rent of 480,000*l.* they netted in

* The province of Tinnevelly.

about two years and a quarter, 1,320,000*l.* sterling, which would be about 660,000*l.* a year, if the recovered arrear was not included. What deduction is to be made on account of that arrear I cannot determine ; but certainly what would reduce the annual income considerably below the rate I have allowed.

The second account received, is the letting of the wasted provinces of the Carnatick. This I understand is at a growing rent, which may or may not realize what it promises ; but if it should answer, it will raise the whole, at some future time, to 1,200,000*l.*

You must here remark, Mr. Speaker, that this revenue is the produce of *all* the nabob's dominions. During the assignment, the nabob paid nothing, because the company had all. Supposing the whole of the lately assigned territory to yield up to the most sanguine expectations of the right honourable gentleman ; and suppose 1,200,000*l.* to be annually realized (of which we actually know of no more than the realizing of six hundred thousand) out of this you must deduct the subsidy and rent which the nabob paid before the assignment, namely 340,000*l.* a year. This reduces back the revenue applicable to the new distribution made by his majesty's ministers, to about 800,000*l.* Of that sum five eighths are by them surrendered to the debts. The remaining three are the only fund left for all the purposes so magnificently displayed in the letter of the board of control ; that is for the new-cast peace establishment ; a new fund for ordnance and fortifications ; and a large allowance for what they call " the splendour of the Durbar."

You have heard the account of these territories as they stood in 1782. You have seen the *actual* receipt since the assignment in 1781, of which I reckon about two years and a quarter productive. I have stated to you the expectation from the wasted part. For realizing all this you may value yourselves on the vigour and diligence of a governour and committee that have done so much. If these hopes from the

committee are rational—remember that the committee is no more. Your ministers, who have formed their fund for these debts on the presumed effect of the committee's management, have put a complete end to that committee. Their acts are rescinded; their leases are broken; their renters are dispersed. Your ministers knew when they signed the death-warrant of the Carnatick, that the nabob would not only turn all these unfortunate farmers of revenue out of employment, but that he has denounced his severest vengeance against them, for acting under British authority. With a knowledge of this disposition, a British chancellor of the exchequer, and treasurer of the navy, incited by no publick advantage, impelled by no publick necessity, in a strain of the most wanton perfidy which has ever stained the annals of mankind, have delivered over to plunder, imprisonment, exile, and death itself, according to the mercy of such execrable tyrants as Amir al Omra and Paul Benfield, the unhappy and deluded souls, who, untaught by uniform example, were still weak enough to put their trust in English faith. They have gone farther; they have thought proper to mock and outrage their misery by ordering them protection and compensation. From what power is this protection to be derived? And from what fund is this compensation to arise? The revenues are delivered over to their oppressor; the territorial jurisdiction, from whence that revenue is to arise, and under which they live, is surrendered to the same iron hands: and that they shall be deprived of all refuge, and all hope, the minister has made a solemn, voluntary declaration, that he never will interfere with the nabob's internal government.

The last thing considered by the board of control among the debts of the Carnatick, was that arising to the East-India company, which after the provision for the cavalry, and the consolidation of 1777, was to divide the residue of the fund of 480,000*l.* a year with the lenders of 1767. This debt the worthy chairman, who sits opposite to me, contends to be three millions

sterling. Lord Macartney's account of 1781, states it to be at that period, 1,200,000/. The first account of the court of directors makes it 900,000/. This, like the private debt, being without any solid existence, is incapable of any distinct limits. Whatever its amount or its validity may be, one thing is clear; it is of the nature and quality of a publick debt. In that light nothing is provided for it, but an eventual surplus to be divided with one class of the private demands, after satisfying the two first classes. Never was a more shameful postponing a publick demand, which by the reason of the thing, and the uniform practice of all nations, supersedes every private claim.

Those who gave this preference to private claims, consider the company's as a lawful demand; else, why did they pretend to provide for it? On their own principles they are condemned.

But I, Sir, who profess to speak to your understanding and to your conscience, and to brush away from this business all false colours, all false appellations, as well as false facts, do positively deny that the Carnatick owes a shilling to the company; whatever the company may be indebted to that undone country. It owes nothing to the company for this plain and simple reason—The territory charged with the debt is their own. To say that their revenues fall short, and owe them money, is to say they are in debt to themselves, which is only talking nonsense. The fact is, that by the invasion of an enemy, and the ruin of the country, the company, either in its own name or in the names of the nabob of Arcot, and rajah of Tanjore, has lost for several years what it might have looked to receive from its own estate. If men were allowed to credit themselves, upon such principles any one might soon grow rich by this mode of accounting. A flood comes down upon a man's estate in the Bedford Level of a thousand pounds a year, and drowns his rents for ten years. The chancellor would put that man into the hands of a trustee, who would gravely make up his books, and for this loss

credit himself in his account for a debt due to him of 10,000*l*. It is, however, on this principle the company makes up its demands on the Carnatick. In peace they go the full length, and indeed more than the full length, of what the people can bear for current establishments; then they are absurd enough to consolidate all the calamities of war into debts; to metamorphose the devastations of the country into demands upon its future production. What is this but to avow a resolution utterly to destroy their own country, and to force the people to pay for their sufferings, to a government which has proved unable to protect either the share of the husbandman or their own? In every lease of a farm, the invasion of an enemy, instead of forming a demand for arrear, is a release of rent; nor for that release is it at all necessary to show, that the invasion has left nothing to the occupier of the soil; though in the present case it would be too easy to prove that melancholy fact. I therefore applaud my right honourable friend, who, when he canvassed the company's accounts, as a preliminary to a bill that ought not to stand on falsehood of any kind, fixed his discerning eye, and his deciding hand, on these debts of the company, from the nabob of Arcot and rajah of Tanjore, and at one stroke expunged them all, as utterly irrecoverable; he might have added as utterly unfounded.

On these grounds I do not blame the arrangement this day in question, as a preference given to the debt of individuals over the company's debt. In my eye it is no more than the preference of a fiction over a chimera; but I blame the preference given to those fictitious private debts over the standing defence and the standing government. It is there the publick is robbed. It is robbed in its army; it is robbed in its civil administration; it is robbed in its credit; it is robbed in its investment which forms the commercial connexion between that country and Europe. There is the robbery.

But my principal objection lies a good deal deeper. That debt to the company is the pretext under which

all the other debts lurk and cover themselves. That debt forms the foul putrid mucus, in which are engendered the whole brood of creeping ascarides, all the endless involutions, the eternal knot, added to a knot of those inexpugnable tape-worms which devour the nutriment, and eat up the bowels of India. It is necessary, sir, you should recollect two things: first, that the nabob's debt to the company carries no interest. In the next place you will observe, that whenever the company has occasion to borrow, she has always commanded whatever she thought fit at eight *per cent.* Carrying in your mind these two facts, attend to the process with regard to the publick and private debt, and with what little appearance of decency they play into each other's hands a game of utter perdition to the unhappy natives of India. The nabob falls into an arrear to the company. The presidency presses for payment. The nabob's answer is, I have no money. Good. But there are soucars who will supply you on the mortgage of your territories. Then steps forward some Paul Benfield, and from his grateful compassion to the nabob, and his filial regard to the company, he unlocks the treasures of his virtuous industry; and for a consideration of twenty-four or thirty-six *per cent.* on a mortgage of the territorial revenue, becomes security to the company for the nobob's arrear.

All this intermediate usury thus becomes sanctified by the ultimate view to the company's payment. In this case, would not a plain man ask this plain question of the company; if you know that the nabob must annually mortgage his territories to your servants to pay his annual arrear to you, why is not the assignment or mortgage made directly to the company itself? By this simple, obvious operation, the company would be relieved and the debt paid, without the charge of a shilling interest to that prince. But if that course should be thought too indulgent, why do they not take that assignment with such interest to themselves as they pay to others, that is eight *per cent.*? Or if it were thought more advisa-

ble (why it should I know not) that he must borrow, why do not the company lend their own credit to the nabob for their own payment? That credit would not be weakened by the collateral security of his territorial mortgage. The money might still be had at eight *per cent.* Instead of any of these honest and obvious methods, the company has for years kept up a show of disinterestedness and moderation, by suffering a debt to accumulate to them from the country powers without any interest at all; and at the same time have seen before their eyes, on a pretext of borrowing to pay that debt, the revenues of the country charged with a usury of twenty, twenty-four, thirty-six, and even eight-and-forty *per cent.* with compound interest, for the benefit of their servants. All this time they know that by having a debt subsisting without any interest, which is to be paid by contracting a debt on the highest interest, they manifestly render it necessary to the nabob of Arcot to give the private demand a preference to the publick; and by binding him and their servants together in a common cause, they enable him to form a party to the utter ruin of their own authority, and their own affairs. Thus their false moderation, and their affected purity, by the natural operation of every thing false, and every thing affected, becomes pander and bawd to the unbridled debauchery and licentious lewdness of usury and extortion.

In consequence of this double game, all the territorial revenues have, at one time or other, been covered by those locusts, the English soucars. Not one single foot of the Carnatick has escaped them; a territory as large as England. During these operations, what a scene has that country presented! The usurious European assignee supersedes the nabob's native farmer of the revenue; the farmer flies to the nabob's presence to claim his bargain; whilst his servants murmur for wages, and his soldiers mutiny for pay. The mortgage to the European assignee is then resumed, and the native farmer replaced; replaced, again to be removed on the new clamour

of the European assignee. Every man of rank and landed fortune being long since extinguished, the remaining miserable last cultivator, who grows to the soil, after having his back scored by the farmer, has it again flayed by the whip of the assignee, and is thus by a ravenous, because a short lived succession of claimants, lashed from oppressor to oppressor, whilst a single drop of blood is left as the means of extorting a single grain of corn. Do not think I paint. Far, very far from it; I do not reach the fact, nor approach to it. Men of respectable condition, men equal to your substantial English yeomen, are daily tied up and scourged to answer the multiplied demands of various contending and contradictory titles, all issuing from one and the same source. Tyrannous exaction brings on servile concealment; and that again calls forth tyrannous coercion. They move in a circle, mutually producing and produced; till at length nothing of humanity is left in the government, no trace of integrity, spirit, or manliness in the people, who drag out a precarious and degraded existence under this system of outrage upon human nature. Such is the effect of the establishment of a debt to the company, as it has hitherto been managed, and as it ever will remain, until ideas are adopted totally different from those which prevail at this time.

Your worthy ministers, supporting what they are obliged to condemn, have thought fit to renew the company's old order against contracting private debts in future. They begin by rewarding the violation of the ancient law; and then they gravely re-enact provisions, of which they have given bounties for the breach. This inconsistency has been well exposed.* But what will you say to their having gone the length of giving positive directions for contracting the debt which they positively forbid?

* In Mr. Fox's speech.

I will explain myself. They order the nabob, out of the revenues of the Carnatick, to allot four hundred and eighty thousand pounds a year, as a fund for the debts before us. For the punctual payment of this annuity, they order him to give *soucar* security. When a *soucar*, that is a money dealer, becomes security for any native prince, the course is, for the native prince to countersecure the money dealer, by making over to him in mortgage a portion of his territory, equal to the sum annually to be paid, with an interest of at least twenty-four *per cent*. The point fit for the house to know is, who are these *soucars*, to whom this security on the revenues in favour of the nabob's creditors is to be given? The majority of the house, unaccustomed to these transactions, will hear with astonishment that these *soucars* are no other than the creditors themselves. The minister, not content with authorizing these transactions in a manner and to an extent un hoped for by the rapacious expectations of usury itself, loads the broken back of the Indian revenues, in favour of his worthy friends the *soucars*, with an additional twenty-four *per cent*. for being security to themselves for their own claims; for condescending to take the country in mortgage, to pay to themselves the fruits of their extortions.

The interest to be paid for this security, according to the most moderate strain of *soucar* demand, comes to one hundred and eighteen thousand pounds a year, which added to the 480,000*l.* on which it is to accrue, will make the whole charge on account of these debts on the Carnatick revenues amount to 598,000*l.* a year, as much as even a long peace will enable those revenues to produce. Can any one reflect for a moment on all those claims of debt, which the minister exhausts himself in contrivances to augment with new usuries, without lifting up his hands and eyes in astonishment of the impudence, both of the claim and of the adjudication? Services of some kind or other these servants of the company must have done, so great and eminent, that the chancellor

of the exchequer cannot think that all they have brought home is half enough. He halloos after them : " Gentlemen, you have forgot a large packet behind you, in your hurry ; you have not sufficiently recovered yourselves ; you ought to have, and you shall have interest upon interest, upon a prohibited debt that is made up of interest upon interest. Even this is too little. I have thought of another character for you, by which you may add something to your gains ; you shall be security to yourselves ; and hence will arise a new usury, which shall efface the memory of all the usuries suggested to you by your own dull inventions."

I have done with the arrangement relative to the Carnatick. After this it is to little purpose to observe on what the ministers have done to Tanjore. Your ministers have not observed even form and ceremony in their outrageous and insulting robbery of that country, whose only crime has been, its early and constant adherence to the power of this, and the suffering of a uniform pillage in consequence of it. The debt of the company from the rajah of Tanjore, is just of the same stuff with that of the nabob of Arcot.

The subsidy from Tanjore, on the arrear of which this pretended debt (if any there be) has accrued to the company, is not, like that paid by the nabob of Arcot, a compensation for vast countries obtained, augmented, and preserved for him ; not the price of pillaged treasuries, ransacked houses, and plundered territories.—It is a large grant, from a small kingdom not obtained by our arms ; robbed, not protected by our power ; a grant for which no equivalent was ever given, or pretended to be given. The right honourable gentleman, however, bears witness in his reports to the punctuality of the payments of this grant of bounty, or, if you please, of fear. It amounts to one hundred and sixty thousand pounds sterling net annual subsidy. He bears witness to a further grant of a town and port, with an annexed district of thirty thousand pound a year, surrendered

to the company since the first donation. He has not born witness, but the fact is (he will not deny it) that in the midst of war, and during the ruin and desolation of a considerable part of his territories, this prince made many very large payments. Notwithstanding these merits and services, the first regulation of ministry is to force from him a territory of an extent which they have not yet thought proper to ascertain, for a military peace establishment, the particulars of which they have not yet been pleased to settle.

The next part of their arrangement is with regard to war. As confessedly this prince had no share in stirring up any of the former wars, so all future wars are completely out of his power; for he has no troops whatever, and is under a stipulation not so much as to correspond with any foreign state, except through the company. Yet, in case the company's servants should be again involved in war, or should think proper again to provoke any enemy, as in times past they have wantonly provoked all India, he is to be subjected to a new penalty. To what penalty?—Why, to no less than the confiscation of all his revenues. But this is to end with the war, and they are to be faithfully returned?—Oh! no; nothing like it. The country is to remain under confiscation until all the debt which the company shall think fit to incur in such war shall be discharged; that is to say, for ever. His sole comfort is to find his old enemy, the nabob of Arcot, placed in the very same condition.

The revenues of that miserable country were, before the invasion of Hyder, reduced to a gross annual receipt of three hundred and sixty thousand pound. From this receipt the subsidy I have just stated is taken. This again, by payments in advance, by extorting deposits of additional sums to a vast amount for the benefit of their soucars, and by an endless variety of other extortions, publick and private, is loaded with a debt, the amount of which I never could ascertain, but which is large undoubtedly, generating a usury the most completely ruinous that

probably was ever heard of; *that is, forty-eight per cent. payable monthly, with compound interest.*

Such is the state to which the company's servants have reduced that country. Now come the reformers, restorers, and comforters of India. What have they done? In addition to all these tyrannous exactions with all these ruinous debts in their train, looking to one side of an agreement whilst they wilfully shut their eyes to the other, they withdraw from Tanjore all the benefits of the treaty of 1762, and they subject that nation to a perpetual tribute of forty thousand a year to the nabob of Arcot; a tribute never due, or pretended to be due to *him*, even when he appeared to be something; a tribute, as things now stand, not to a real potentate, but to a shadow, a dream, an incubus of oppression. After the company has accepted in subsidy, in grant of territory, in remission of rent, as a compensation for their own protection, at least two hundred thousand pound a year, without discounting a shilling for that receipt, the ministers condemn this harassed nation to be tributary to a person who is himself, by their own arrangement, deprived of the right of war or peace; deprived of the power of the sword; forbid to keep up a single regiment of soldiers; and is therefore wholly disabled from all protection of the country which is the object of the pretended tribute. Tribute hangs on the sword. It is an incident inseparable from real sovereign power. In the present case to suppose its existence, is as absurd as it is cruel and oppressive. And here, Mr. Speaker, you have a clear exemplification of the use of those false names, and false colours, which the gentlemen who have lately taken possession of India choose to lay on for the purpose of disguising their plan of oppression. The nabob of Arcot, and rajah of Tanjore, have, in truth and substance, no more than a merely civil authority, held in the most entire dependence on the company. The nabob, without military, without federal capacity, is extinguished as a potentate; but then he is carefully kept alive as an independent and

sovereign power, for the purpose of rapine and extortion ; for the purpose of perpetuating the old intrigues, animosities, usuries, and corruptions.

It was not enough that this mockery of tribute, was to be continued without the correspondent protection, or any of the stipulated equivalents, but ten years of arrear, to the amount of 400,000*l.* sterling, is added to all the debts to the company, and to individuals, in order to create a new debt, to be paid (if at all possible to be paid in whole or in part) only by new usuries ; and all this for the nabob of Arcot, or rather for Mr. Benfield, and the corps of the nabob's creditors, and their soucars. Thus these miserable Indian princes are continued in their seats, for no other purpose than to render them in the first instance objects of every species of extortion ; and in the second, to force them to become, for the sake of a momentary shadow of reduced authority, a sort of subordinate tyrants, the ruin and calamity, not the fathers and cherishers of their people.

But take this tribute only as a mere charge (without title, cause, or equivalent) on this people ; what one step has been taken to furnish grounds for a just calculation and estimate of the proportion of the burthen and the ability ? None ; not an attempt at it. They do not adapt the burthen to the strength ; but they estimate the strength of the bearers by the burthen they impose. Then what care is taken to leave a fund sufficient to the future reproduction of the revenues that are to bear all these loads ? Every one, but tolerably conversant in Indian affairs, must know that the existence of this little kingdom depends on its control over the river Caverry. The benefits of heaven to any community, ought never to be connected with political arrangements, or made to depend on the personal conduct of princes ; in which the mistake, or errour, or neglect, or distress, or passion of a moment on either side, may bring famine on millions, and ruin an innocent nation perhaps for ages. The means of the subsistence of mankind should be as im-

mutable as the laws of nature, let power and dominion take what course they may.—Observe what has been done with regard to this important concern. The use of this river is indeed at length given to the rajah, and a power provided for its enjoyment *at his own charge*; but the means of furnishing that charge (and a mighty one it is) are wholly cut off. This use of the water, which ought to have no more connexion than clouds, and rains, and sunshine, with the politicks of the rajah, the nabob, or the company, is expressly contrived as a means of enforcing demands and arrears of tribute. This horrid and unnatural instrument of extortion had been a distinguishing feature in the enormities of the Carnatick politicks that loudly called for reformation. But the food of a whole people is by the reformers of India conditioned on payments from its prince, at a moment that he is overpowered with a swarm of their demands, without regard to the ability of either prince or people. In fine, by opening an avenue to the irruption of the nabob of Arcot's creditors and soucars, whom every man who did not fall in love with oppression and corruption on an experience of the calamities they produced, would have raised wall before wall, and mound before mound, to keep from a possibility of entrance, a more destructive enemy than Hyder Ali is introduced into that kingdom. By this part of their arrangement in which they establish a debt to the nabob of Arcot, in effect and substance, they deliver over Tanjore, bound hand and foot, to Paul Benfield, the old betrayer, insulter, oppressor, and scourge of a country, which has for years been an object of an unremitted, but unhappily an unequal struggle, between the bounties of Providence to renovate, and the wickedness of mankind to destroy.

The right honourable gentleman* talks of his fairness in determining the territorial dispute between the nabob of Arcot and the prince of that country, when he superseded the determination of the directors, in

* Mr. Dundas.

whom the law had vested the decision of that controversy. He is in this just as feeble as he is in every other part. But it is not necessary to say a word in refutation of any part of his argument. The mode of the proceeding sufficiently speaks the spirit of it. It is enough to fix his character as a judge that he *never heard the directors in defence of their adjudication, nor either of the parties in support of their respective claims.* It is sufficient for me, that he takes from the rajah of Tanjore by this pretended adjudication, or rather from his unhappy subjects, 40,000*l.* a year of his and their revenue, and leaves upon his and their shoulders all the charges that can be made on the part of the nabob, on the part of his creditors, and on the part of the company, without so much as hearing him as to right or to ability. But what principally induces me to leave the affair of the territorial dispute between the nabob and the rajah to another day, is this, that both the parties being stripped of their all, it little signifies under which of their names the unhappy undone people are delivered over to the merciless soucars, the allies of that right honourable gentleman, and the chancellor of the exchequer. In them ends the account of this long dispute of the nabob of Arcot, and the rajah of Tanjore.

The right honourable gentleman is of opinion, that his judgment in this case can be censured by none but those who seem to act as if they were paid agents to one of the parties. What does he think of his court of directors? If they are paid by either of the parties, by which of them does he think they are paid? He knows that their decision has been directly contrary to his. Shall I believe that it does not enter into his heart to conceive, that any person can steadily and actively interest himself in the protection of the injured and oppressed, without being well paid for his service? I have taken notice of this sort of discourse some days ago, so far as it may be supposed to relate to me. I then contented myself, as I shall now do, with giving it a cold, though a very direct contradiction. Thus much I do from respect to truth. If I

did more, it might be supposed, by my anxiety to clear myself; that I had imbibed the ideas, which, for obvious reasons, the right honourable gentleman wishes to have received concerning all attempts to plead the cause of the natives of India, as if it were a disreputable employment. If he had not forgot in his present occupation, every principle which ought to have guided him, and I hope did guide him, in his late profession, he would have known, that he who takes a fee for pleading the cause of distress against power, and manfully performs the duty he has assumed, receives an honourable recompense for a virtuous service. But if the right honourable gentleman will have no regard to fact in his insinuations, or to reason in his opinions, I wish him at least to consider, that if taking an earnest part with regard to the oppressions exercised in India, and with regard to this most oppressive case of Tanjore in particular, can ground a presumption of interested motives, he is himself the most mercenary man I know. His conduct, indeed, is such that he is on all occasions the standing testimony against himself. He it was that first called to that case the attention of the house: the reports of his own committee are ample and affecting upon that subject; and as many of us as have escaped his massacre, must remember the very pathetick picture he made of the sufferings of the Tanjore country, on the day when he moved the unwieldy code of his Indian resolutions. Has he not stated over and over again in his reports, the ill treatment of the rajah of Tanjore (a branch of the royal house of the Marattas, every injury to whom the Marattas felt as offered to themselves) as a main cause of the alienation of that people from the British power? And does he now think, that to betray his principles, to contradict his declarations, and to become himself an active instrument in those oppressions which he had so tragically lamented, is the way to clear himself of having been actuated by a pecuniary interest, at the time when he chose to appear full of tenderness to that ruined nation?

The right honourable gentleman is fond of parading on the motives of others, and on his own. As to himself, he despises the imputations of those who suppose that any thing corrupt could influence him in this his unexampled liberality of the publick treasure. I do not know that I am obliged to speak to the motives of ministry, in the arrangements they have made of the pretended debts of Arcot and Tanjore. If I prove fraud and collusion with regard to publick money on those right honourable gentlemen, I am not obliged to assign their motives; because no good motives can be pleaded in favour of their conduct. Upon that case I stand; we are at issue; and I desire to go to trial. This, I am sure, is not loose railing, or mean insinuation, according to their low and degenerate fashion, when they make attacks on the measures of their adversaries. It is a regular and juridical course; and, unless I choose it, nothing can compel me to go further.

But since these unhappy gentlemen have dared to hold a lofty tone about their motives, and affect to despise suspicion, instead of being careful not to give cause for it, I shall beg leave to lay before you some general observations on what I conceive was their duty in so delicate a business.

If I were worthy to suggest any line of prudence to that right honourable gentleman, I would tell him, that the way to avoid suspicion in the settlement of pecuniary transactions, in which great frauds have been very strongly presumed, is, to attend to these few plain principles:—First, to hear all parties equally, and not the managers for the suspected claimants only.—Not to proceed in the dark; but to act with as much publicity as possible.—Not to precipitate decision.—To be religious in following the rules prescribed in the commission under which we act. And, lastly, and above all, not to be fond of straining constructions, to force a jurisdiction, and to draw to ourselves the management of a trust in its nature invidious and obnoxious to suspicion, where the plainest letter of the law does not compel it. If

these few plain rules are observed, no corruption ought to be suspected; if any of them are violated, suspicion will attach in proportion. If all of them are violated, a corrupt motive of some kind or other will not only be suspected, but must be violently presumed.

The persons in whose favour all these rules have been violated, and the conduct of ministers towards them, will naturally call for your consideration, and will serve to lead you through a series and combination of facts and characters, if I do not mistake, into the very inmost recesses of this mysterious business. You will then be in possession of all the materials on which the principles of sound jurisprudence will found, or will reject the presumption of corrupt motives; or if such motives are indicated, will point out to you of what particular nature the corruption is.

Our wonderful minister, as you all know, formed a new plan, a plan *insigne recens alio indictum ore*, a plan for supporting the freedom of our constitution by court intrigues, and for removing its corruptions by Indian delinquency. To carry that bold paradoxical design into execution, sufficient funds and apt instruments became necessary. You are perfectly sensible that a parliamentary reform occupies his thoughts day and night, as an essential member of this extraordinary project. In his anxious researches upon this subject natural instinct, as well as sound policy, would direct his eyes, and settle his choice on Paul Benfield. Paul Benfield is the grand parliamentary reformer, the reformer to whom the whole choir of reformers bow, and to whom even the right honourable gentleman himself must yield the palm: for what region in the empire, what city, what borough, what county, what tribunal, in this kingdom, is not full of his labours? Others have been only speculators; he is the grand practical reformer; and whilst the chancellor of the exchequer pledges in vain the man and the minister, to increase the provincial members, Mr. Benfield has auspi-

ciously and practically begun it. Leaving far behind him even lord Camelford's generous design of bestowing Old Sarum on the bank of England, Mr. Benfield has thrown in the borough of Cricklade to reenforce the county representation. Not content with this, in order to station a steady phalanx for all future reforms, this publick-spirited usurer, amidst his charitable toils for the relief of India, did not forget the poor rotten constitution of his native country. For her, he did not disdain to stoop to the trade of a wholesale upholsterer for this house, to furnish it not with the faded tapestry figures of antiquated merit, such as decorate, and may reproach some other houses, but with real, solid, living patterns of true modern virtue. Paul Benfield made (reckoning himself) no fewer than eight members in the last parliament. What copious streams of pure blood must he not have transfused into the veins of the present !

But what is even more striking than the real services of this new-imported patriot, is his modesty. As soon as he had conferred this benefit on the constitution, he withdrew himself from our applause. He conceived that the duties of a member of parliament (which with the elect faithful, the true believers, the *Islam* of parliamentary reform, are of little or no merit, perhaps not much better than specious sins) might be as well attended to in India as in England, and the means of reformation to parliament itself, be far better provided. Mr. Benfield was therefore no sooner elected, than he set off from Madras, and defrauded the longing eyes of parliament. We have never enjoyed in this house the luxury of beholding that minion of the human race, and contemplating that visage, which has so long reflected the happiness of nations.

It was therefore not possible for the minister to consult personally with this great man. What then was he to do ? Through a sagacity that never failed him in these pursuits, he found out in Mr Benfield's representative, his exact resemblance. A specifick

attraction by which he gravitates towards all such characters, soon brought our minister into a close connexion with Mr. Benfield's agent and attorney; that is, with the grand contractor (whom I name to honour) Mr. Richard Atkinson; a name that will be well remembered as long as the records of this house, as long as the records of the British treasury, as long as the monumental debt of England shall endure.

This gentleman, sir, acts as attorney for Mr. Paul Benfield. Every one who hears me, is well acquainted with the sacred friendship, and the steady mutual attachment that subsists between him and the present minister. As many members as chose to attend in the first session of this parliament, can best tell their own feelings at the scenes which were then acted. How much that honourable gentleman was consulted in the original frame and fabrick of the bill, commonly called Mr. Pitt's India bill, is matter only of conjecture; though by no means difficult to divine. But the publick was an indignant witness of the ostentation with which that measure was made his own, and the authority with which he brought up clause after clause, to stuff and fatten the rankness of that corrupt act. As fast as the clauses were brought up to the table, they were accepted. No hesitation; no discussion. They were received by the new minister, not with approbation, but with implicit submission. The reformation may be estimated, by seeing who was the reformer. Paul Benfield's associate and agent was held up to the world as legislator of Indostan. But it was necessary to authenticate the coalition between the men of intrigue in India and the minister of intrigue in England, by a studied display of the power of this their connecting link. Every trust, every honour, every distinction, was to be heaped upon him. He was at once made a director of the India company; made an alderman of London; and to be made, if ministry could prevail (and I am sorry to say how near, how very near they were prevailing) representative of the capital of this kingdom. But to secure his services against all risk, he was brought in for a ministerial

borough. On his part, he was not wanting in zeal for the common cause. His advertisements show his motives, and the merits upon which he stood. For your minister, this worn-out veteran submitted to enter into the dusty field of the London contest; and you all remember, that in the same virtuous cause he submitted to keep a sort of publick office or counting-house, where the whole business of the last general election was managed. It was openly managed by the direct agent and attorney of Benfield. It was managed upon Indian principles, and for an Indian interest. This was the golden cup of abominations; this the chalice of the fornications of rapine, usury, and oppression, which was held out by the gorgeous eastern harlot; which so many of the people, so many of the nobles of this land, had drained to the very dregs. Do you think that no reckoning was to follow this lewd debauch? that no payment was to be demanded for this riot of publick drunkenness and national prostitution? Here! you have it here before you. The principal of the grand election manager must be indemnified; accordingly the claims of Benfield and his crew must be put above all inquiry.

For several years, Benfield appeared as the chief proprietor as well as the chief agent, director, and controller, of this system of debt. The worthy chairman of the company has stated the claims of this single gentleman on the nabob of Arcot, as amounting to five hundred thousand pounds. Possibly at the time of the chairman's state, they might have been as high. Eight hundred thousand pound had been mentioned some time before; and according to the practice of shifting the names of creditors in these transactions, and reducing or raising the debt itself at pleasure, I think it not impossible, that at one period, the name of Benfield might have stood before those frightful figures. But my best information goes to fix his share no higher than four hundred thousand pounds. By the scheme of the present ministry for adding to the principal twelve *per cent.* from the year 1777 to the year 1781,

four hundred thousand pounds, that smallest of the sums ever mentioned for Mr. Benfield, will form a capital of 592,000*l.* at six *per cent.* Thus, besides the arrears of three years, amounting to 106,500*l.* (which, as fast as received, may be legally lent out at twelve *per cent.*) Benfield has received by the ministerial grant before you, an annuity of 35,520*l.* a year, charged on the publick revenues.

Our mirror of ministers of finance, did not think this enough for the services of such a friend as Benfield. He found that lord Macartney, in order to frighten the court of directors from the object of obliging the nabob to give soucar security for his debt, assured them, that if they should take that step, Benfield would infallibly be the soucar; and would thereby become the entire master of the Carnatick. What lord Macartney thought sufficient to deter the very agents and partakers with Benfield in his iniquities, was the inducement to the two right honourable gentlemen to order this very soucar security to be given, and to recal Benfield to the city of Madras, from the sort of decent exile, into which he had been relegated by lord Macartney. You must therefore consider Benfield, as soucar security for 480,000*l.* a year, which at twenty-four *per cent.* (supposing him contented with that profit) will, with the interest of his old debt, produce an annual income of 149,520*l.* a year.

Here is a specimen of the new and pure aristocracy created by the right honourable gentleman,* as the support of the crown and constitution, against the old, corrupt, refractory, natural interests of this kingdom; and this is the grand counterpoise against all odious coaiitions of these interests. A single Benfield outweighs them all; a criminal, who long since ought to have fattened the region kites with his offal, is, by his majesty's ministers, enthroned in the government of a great kingdom, and enfeoffed with an estate, which in the comparison effaces the splen-

* Right honourable William Pitt.

dour of all the nobility of Europe. To bring a little more distinctly into view the true secret of this dark transaction, I beg you particularly to advert to the circumstances which I am going to place before you.

The general corps of creditors, as well as Mr. Benfield himself, not looking well into futurity, nor presaging the minister of this day, thought it not expedient for their common interest, that such a name as his should stand at the head of their list. It was therefore agreed amongst them, that Mr. Benfield should disappear by making over his debt to Messrs. Taylor, Majendie, and Call, and should in return be secured by their bond.

The debt thus exonerated of so great a weight of its odium, and otherwise reduced from its alarming bulk, the agents thought they might venture to print a list of the creditors. This was done for the first time in the year 1783, during the duke of Portland's administration. In this list the name of Benfield was not to be seen. To this strong negative testimony was added the further testimony of the nabob of Arcot. That prince (or rather Mr. Benfield for him) writes to the court of directors a letter full of complaints and accusations against lord Macartney, conveyed in such terms as were natural for one of Mr. Benfield's habits and education to employ. Amongst the rest, he is made to complain of his lordship's endeavouring to prevent an intercourse of politeness and sentiment between him and Mr. Benfield; and to aggravate the affront, he expressly declares Mr. Benfield's visits to be only on account of respect and of gratitude, as no pecuniary transactions subsisted between them.

Such, for a considerable space of time, was the outward form of the loan of 1777, in which Mr. Benfield had no sort of concern. At length intelligence arrived at Madras, that this debt, which had always been renounced by the court of directors, was rather like to become the subject of something more like a criminal inquiry, than of any patronage or sanction from parliament. Every ship brought

accounts, one stronger than the other, of the prevalence of the determined enemies of the Indian system. The publick revenues became an object desperate to the hopes of Mr. Benfield; he therefore resolved to fall upon his associates, and, in violation of that faith which subsists among those who have abandoned all other, commences a suit in the mayor's court against Taylor, Majendie, and Call, for the bond given to him, when he agreed to disappear for his own benefit as well as that of the common concern. The assignees of his debt, who little expected the springing of this mine, even from such an engineer as Mr. Benfield, after recovering their first alarm, thought it best to take ground on the real state of the transaction. They divulged the whole mystery, and were prepared to plead, that they had never received from Mr. Benfield any other consideration for the bond, than a transfer, in trust for himself, of his demand on the nabob of Arcot. A universal indignation arose against the perfidy of Mr. Benfield's proceeding; the event of the suit was looked upon as so certain, that Benfield was compelled to retreat as precipitately as he had advanced boldly; he gave up his bond, and was reinstated in his original demand, to wait the fortune of other claimants. At that time, and at Madras, this hope was dull indeed; but at home another scene was preparing.

It was long before any publick account of this discovery at Madras had arrived in England, that the present minister, and his board of control, thought fit to determine on the debt of 1777. The recorded proceedings at this time knew nothing of any debt to Benfield. There was his own testimony; there was the testimony of the list; there was the testimony of the nabob of Arcot against it. Yet such was the ministers' feeling of the true secret of this transaction, that they thought proper, in the teeth of all these testimonies, to give him license to return to Madras. Here the ministers were under some embarrassment. Confounded between their resolution of rewarding

the good services of Benfield's friends and associates in England, and the shame of sending that notorious incendiary to the court of the nabob of Arcot, to renew his intrigues against the British government, at the time they authorize his return, they forbid him, under the severest penalties, from any conversation with the nabob or his ministers; that is, they forbid his communication with the very person on account of his dealings with whom they permit his return to that city. To overtop this contradiction, there is not a word restraining him from the freest intercourse with the nabob's second son, the real author of all that is done in the nabob's name; who, in conjunction with this very Benfield, has acquired an absolute dominion over that unhappy man, is able to persuade him to put his signature to whatever paper they please, and often without any communication of the contents. This management was detailed to them at full length by lord Macartney, and they cannot pretend ignorance of it.

I believe, after this exposure of facts, no man can entertain a doubt of the collusion of ministers with the corrupt interest of the delinquents in India. Whenever those in authority provide for the interest of any person, on the real but concealed state of his affairs, without regard to his avowed, publick, and ostensible pretences, it must be presumed that they are in confederacy with him, because they act for him on the same fraudulent principles on which he acts for himself. It is plain, that the ministers were fully apprized of Benfield's real situation, which he had used means to conceal whilst concealment answered his purposes. They were, or the person on whom they relied was, of the cabinet council of Benfield, in the very depth of all his mysteries. An honest magistrate compels men to abide by one story. An equitable judge would not hear of the claim of a man who had himself thought proper to renounce it. With such a judge his shuffling and prevarication would have damned his claims; such a judge never

would have known, but in order to animadvert upon proceedings of that character.

I have thus laid before you, Mr. Speaker, I think with sufficient clearness, the connexion of the ministers with Mr. Atkinson at the general election; I have laid open to you the connexion of Atkinson with Benfield; I have shown Benfield's employment of his wealth, in creating a parliamentary interest, to procure a ministerial protection; I have set before your eyes his large concern in the debt, his practices to hide that concern from the publick eye, and the liberal protection which he has received from the minister. If this chain of circumstances do not lead you necessarily to conclude that the minister has paid to the avarice of Benfield the services done by Benfield's connexions to his ambition, I do not know any thing short of the confession of the party that can persuade you of his guilt. Clandestine and collusive practice can only be traced by combination and comparison of circumstances. To reject such combination and comparison is to reject the only means of detecting fraud; it is indeed to give it a patent and free license to cheat with impunity.

I confine myself to the connexion of ministers, mediately or immediately, with only two persons concerned in this debt. How many others, who support their power and greatness within and without doors, are concerned originally, or by transfers of these debts, must be left to general opinion. I refer to the reports of the select committee for the proceedings of some of the agents in these affairs, and their attempts, at least, to furnish ministers with the means of buying general courts, and even whole parliaments, in the gross.

I know that the ministers will think it little less than acquittal, that they are not charged with having taken to themselves some part of the money of which they have made so liberal a donation to their partisans, though the charge may be indisputably fixed upon the corruption of their politicks. For my part, I follow their crimes to that point to which legal pre-

sumptions and natural indications lead me, without considering what species of evil motive tends most to aggravate or to extenuate the guilt of their conduct. But if I am to speak my private sentiments, I think that in a thousand cases for one it would be far less mischievous to the publick, and full as little dishonourable to themselves, to be polluted with direct bribery, than thus to become a standing auxiliary to the oppression, usury, and peculation of multitudes, in order to obtain a corrupt support to their power. It is by bribing, not so often by being bribed, that wicked politicians bring ruin on mankind. Avarice is a rival to the pursuits of many. It finds a multitude of checks, and many opposers, in every walk of life. But the objects of ambition are for the few ; and every person who aims at indirect profit, and therefore wants other protection than innocence, and law, instead of its rival, becomes its instrument. There is a natural allegiance and fealty due to this domineering paramount evil, from all the vassal vices, which acknowledge its superiority, and readily militate under its banners ; and it is under that discipline alone that avarice is able to spread to any considerable extent, or to render itself a general publick mischief. It is therefore no apology for ministers that they have not been bought by the East India delinquents, but that they have only formed an alliance with them for screening each other from justice, according to the exigence of their several necessities. That they have done so is evident ; and the junction of the power of office in England, with the abuse of authority in the east, has not only prevented even the appearance of redress to the grievances of India, but I wish it may not be found to have dulled, if not extinguished, the honour, the candour, the generosity, the good nature, which used formerly to characterize the people of England. I confess, I wish that some more feeling than I have yet observed for the sufferings of our fellow-creatures and fellow-subjects in that oppressed part of the world, had manifested itself in any one quarter of the kingdom, or in any one large description of men.

That these oppressions exist, is a fact no more denied, than it is resented as it ought to be. Much evil has been done in India under the British authority. What has been done to redress it? We are no longer surprised at any thing. We are above the unlearned and vulgar passion of admiration. But it will astonish posterity, when they read our opinions in our actions, that after years of inquiry we have found out that the sole grievance of India consisted in this, that the servants of the company there had not profited enough of their opportunities, nor drained it sufficiently of its treasures; when they shall hear that the very first and only important act of a commission specially named by act of parliament, is to charge upon an undone country, in favour of a handful of men in the humblest ranks of the publick service, the enormous sum of perhaps four millions of sterling money.

It is difficult for the most wise and upright government to correct the abuses of remote delegated power, productive of unmeasured wealth, and protected by the boldness and strength of the same ill-got riches. These abuses, full of their own wild native vigour, will grow and flourish under mere neglect. But where the supreme authority, not content with winking at the rapacity of its inferiour instruments, is so shameless and corrupt as openly to give bounties and premiums for disobedience to its laws; when it will not trust to the activity of avarice in the pursuit of its own gains; when it secures publick robbery by all the careful jealousy and attention with which it ought to protect property from such violence; the commonwealth then is become totally perverted from its purposes; neither God nor man will long endure it; nor will it long endure itself. In that case, there is an unnatural infection, a pestilential taint fermenting in the constitution of society, which fever and convulsions of some kind or other must throw off; or in which the vital powers, worsted in an unequal struggle, are pushed back upon themselves, and by a reversal of their whole functions, fester to gangrene, to death; and instead of what was but just now the delight and

boast of the creation, there will be cast out in the face of the sun, a bloated, putrid, noisome carcass, full of stench and poison, an offence, a horror, a lesson to the world.

In my opinion, we ought not to wait for the fruitless instruction of calamity, to inquire into the abuses which bring upon us ruin in the worst of its forms, in the loss of our fame and virtue. But the right honourable gentleman* says, in answer to all the powerful arguments of my honourable friend—"that this inquiry is of a delicate nature, and that the state will suffer detriment by the exposure of this transaction." But it is exposed; it is perfectly known in every member, in every particle, and in every way, except that which may lead to a remedy. He knows that the papers of correspondence are printed, and that they are in every hand.

He and delicacy are a rare and a singular coalition. He thinks that to divulge our Indian politicks, may be highly dangerous. He! the mover! the chairman! the reporter of the committee of secrecy! he that brought forth in the utmost detail, in several vast, printed folios, the most recondite parts of the politicks, the military, the revenues of the British empire in India. With six great chopping bastards,† each as lusty as an infant Hercules, this delicate creature blushes at the sight of his new bridegroom, assumes a virgin delicacy; or, to use a more fit, as well as a more poetick comparison, the person so squeamish, so timid, so trembling lest the winds of heaven should visit too roughly, is expanded to broad sunshine, exposed like the sow of imperial augury, lying in the mud with all the prodigies of her fertility about her, as evidence of her delicate amours—*Triginta capitum fœtus enixa jacebat, alba solo recubans albi circum ubera nati.*

Whilst discovery of the misgovernment of others led to his own power, it was wise to inquire; it was

* Mr. Dundas.

† Six Reports of the Committee of Secrecy.

safe to publish : there was then no delicacy ; there was then no danger. But when his object is obtained, and in his imitation he has outdone the crimes that he had reprobated in volumes of reports, and in sheets of bills of pains and penalties, then concealment becomes prudence ; and it concerns the safety of the state, that we should not know, in a mode of parliamentary cognizance, what all the world knows but too well : that is, in what manner he chooses to dispose of the publick revenues to the creatures of his politicks.

The debate has been long, and as much so on my part, at least, as on the part of those who have spoken before me. But long as it is, the more material half of the subject has hardly been touched on ; that is, the corrupt and destructive system to which this debt has been rendered subservient, and which seems to be pursued with at least as much vigour and regularity as ever. If I considered your ease or my own, rather than the weight and importance of this question, I ought to make some apology to you, perhaps some apology to myself, for having detained your attention so long. I know on what ground I tread. This subject, at one time taken up with so much fervour and zeal, is no longer a favourite in this house. The house itself has undergone a great and signal revolution. To some the subject is strange and uncouth ; to several harsh and distasteful ; to the relicks of the last parliament it is a matter of fear and apprehension. It is natural for those who have seen their friends sink in the tornado which raged during the late shift of the monsoon, and have hardly escaped on the planks of the general wreck, it is but too natural for them, as soon as they make the rocks and quicksands of their former disasters, to put about their new-built barks, and, as much as possible, to keep aloof from this perilous lee shore.

But let us do what we please to put India from our thoughts, we can do nothing to separate it from our publick interest and our national reputation. Our attempts to banish this importunate duty, will only make it return upon us again and again, and every

time in a shape more unpleasant than the former. A government has been fabricated for that great province; the right honourable gentleman says, that therefore you ought not to examine into its conduct. Heavens! what an argument is this! We are not to examine into the conduct of the direction, because it is an old government: we are not to examine into this board of control, because it is a new one. Then we are only to examine into the conduct of those who have no conduct to account for. Unfortunately the basis of this new government has been laid on old condemned delinquents, and its superstructure is raised out of prosecutors turned into protectors. The event has been such as might be expected. But if it had been otherwise constituted; had it been constituted even as I wished, and as the mover of this question had planned, the better part of the proposed establishment was in the publicity of its proceedings; in its perpetual responsibility to parliament. Without this check, what is our government at home, even awed, as every European government is, by an audience formed of the other states of Europe, by the applause or condemnation of the discerning and critical company before which it acts? But if the scene on the other side the globe, which tempts, invites, almost compels to tyranny and rapine, be not inspected with the eye of a severe and unremitting vigilance, shame and destruction must ensue. For one, the worst event of this day, though it may deject, shall not break or subdue me. The call upon us is authoritative. Let who will shrink back, I shall be found at my post. Baffled, discountenanced, subdued, discredited, as the cause of justice and humanity is, it will be only the dearer to me. Whoever therefore shall at any time bring before you any thing towards the relief of our distressed fellow-citizens in India, and towards a subversion of the present most corrupt and oppressive system for its government, in me shall find a weak, I am afraid, but a steady, earnest, and faithful assistant.

SPEECH OF M. DE MIRABEAU

ON THE ROYAL ASSENT.

DURING the memorable deliberations of the National Assembly of France, on the organization of the new government, much attention seems to have been directed to that part of the constitution which regarded the share of legislative authority to be invested in the monarch. After a wide range of loose declamation on the subject, the debate became restricted to the consideration of the single question: "*Whether a law should be enacted by the mere authority of the legislative body without the sanction of the king?*" Each side of the proposition was ingeniously argued, and obstinately maintained. At length, however, it was determined by a large majority: "*That the king should have the power of suspending any decree for two successive legislatures; but if a third should persist in enacting it, then it was to have the force of a law without the royal assent.*"

In support of the *absolute veto of the king*, the annexed spirited harangue was pronounced by M. De Mirabeau, the elder, which the assembly ordered to be printed.

GENTLEMEN,

IN the best organized monarchies, the royal authority is always an object of fear to the best citizens: he whom the law places over all, easily becomes the rival of the law. Sufficiently powerful to protect the

constitution, he is frequently tempted to destroy it. The uniform progress of regal authority every where, hath taught us but too well the necessity of watching it. This distrust, salutary in itself, leads us naturally to desire to restrain a power so formidable. In spite of ourselves, a secret terroure prevents us from approaching the means with which the supreme head of the nation must be armed, to the end that he may perform the functions which are assigned to him.

However, if we coolly consider the principles and the nature of monarchical government, erected upon the basis of the people's sovereignty; if we attentively examine the circumstances which occasion its formation, we shall find that the monarch ought to be considered rather as the protector of the people, than as the enemy of their prosperity.

Two powers are necessary to the existence and to the functions of the body politick; that of willing, and that of acting. By the first, society enacts the laws which are to lead her to the end proposed, which is, incontrovertibly, the good of the whole. By the second, those laws are executed; and the publick force enables society to triumph over the obstacles, which that executive power might meet in the opposition arising from the private interest of individuals.

In a great nation, these two powers cannot be exercised by itself; hence the necessity for representatives of the people, to exercise the faculty of willing, or the legislative power; hence also the necessity for another kind of representatives, to exercise the faculty of acting, or the executive power.

The more considerable the nation is, the more does it import that this latter power should be active; hence the necessity of one sole and supreme chief, of a monarchical government in extensive states, where convulsions, dismemberments would be extremely to be apprehended, if there did not exist a force sufficient to unite the several parts, and turn their activity towards one common centre.

These two powers are equally necessary, equally precious to the nation. This, however, is worthy

of remark ; that the executive power, acting continually upon the people, is more immediately connected with it ; that, charged as this power is with the care of maintaining the equilibrium, of counteracting the partialities, the preferences towards which the smaller number continually tends, to the prejudice of the greater, it is of importance to that people, that that power should constantly possess effectual means of supporting itself.

These means consist in the right conferred on the supreme head of the nation, of examining the acts of the legislative power, and of granting or refusing them the sacred stamp of law.

Called upon by the very nature of his institution, to be at once the executor of the law, and the protector of the people, the monarch might be compelled to turn the publick force against the people, if his intervention was not requisite for completing the acts of legislation, by declaring them conformable to the will of the community.

This prerogative of the monarch is particularly essential in every state, where the people, incapable of exercising, in any shape, the legislative power, is obliged to intrust it to representatives.

As, from the nature of things, it must necessarily happen, that, in the election of representatives, the choice will not be directed to the most worthy, but to those whom situation, fortune, and particular circumstances seem to mark out as persons who can willingly sacrifice their time to the business of the publick, there will always result from the election of those representatives of the people, a kind of virtual aristocracy, which, incessantly tending to acquire a legal consistence, will become alike hostile to the monarch, with whom it will wish to put itself on an equality, and to the people, whom it will constantly endeavour to abase.

Hence that alliance, so natural and so necessary, between the prince and the people against every species of aristocracy ; and as this alliance is founded upon their having the same interests, the same appre-

hensions, they must have the same object, and consequently the same will.

If, on one hand, the greatness of the prince depends on the prosperity of the people, on the other, the happiness of the people rests chiefly upon the tutelary power of the prince.

It is not, therefore, for his particular advantage that the monarch interferes in legislation, but for the interest of the people; and in this sense it is, that we can and ought to say, that the royal sanction is not the prerogative of the monarch, but the property, the domain of the nation.

I have hitherto supposed an order of things to which we are making great strides, I mean an organized and constituted monarchy; but, as we are not yet arrived at such an order of things, I must explain myself clearly. It is my opinion, that the right of suspending, and even of putting a stop to the action of the legislative body, ought to belong to the king when the constitution shall be settled, and the sole question be the preservation of it. But this right of stopping, this *veto*, must not be exercised, when the question is concerning the formation of the constitution, I do not see how you could dispute the people's right of giving itself a constitution, by which it chooses to be governed henceforward.

Let this point, therefore, be the sole object of our inquiry, whether, in the constitution which we are about to form, the royal sanction ought to enter as an ingredient in the legislature.

Undoubtedly, to him who siezes only the surface, strong objections will present themselves against the idea of a *veto*, exercised by any individual whatsoever, in opposition to the wishes of the representatives of the people. When we suppose the national assembly, composed of its true elements, presenting to the prince the fruits of its deliberations, offering up to him the result of the most free and most enlightened discussion, the produce of all the knowledge and information it could gather together, that, one would think, is all that human prudence requires

for stating, I will say not only the general will, but likewise the general understanding; and, undoubtedly, in this abstract point of view, it may seem repugnant to good sense to allow that a single person should have a right to answer: I oppose this general will, this general understanding. This idea even becomes still more unpalatable, when it is to be settled by the constitution, that the man armed with this terrible *veto* shall be likewise armed with the whole publick force, without which the general will can never be certain of being executed.

All these objections vanish before this important truth, that, without the right of resistance in the hands of the depositary of the publick force, that force might frequently be employed, in spite of him, to execute a will that was contrary to the general will.

Now, to prove, by an example, that this danger would exist, were the prince despoiled of the *veto* upon all legislative propositions which might be presented to him by the national assembly, I ask you only to suppose an improper choice of representatives, and two interior regulations, already proposed and authorized by the example of England; namely:

The excluding the publick from the house of assembly upon the simple requisition of a member; and the interdicting the publick papers to give an account of the debates.

These two regulations once obtained, it is evident that the next step, and that very quickly, would be the expulsion of every indiscreet member; and the terror of the despotism of the national assembly operating upon the assembly itself, nothing further would be wanting, under a weak prince, than a little time and address to establish *by law* the domination of twelve hundred aristocrats, reduce the royal authority to be nothing but the passive instrument of their will, and replunge the people into that state of degradation, which ever accompanies the servitude of the prince.

The prince is the perpetual representative of the people, as the deputies are its representatives elected for a certain term. The rights of the one, like those of the others, are founded only on the interest of those who gave them their political existence.

None exclaims against the *veto* of the national assembly, which, in fact, is only the right of the people intrusted to its representatives, in order to be opposed to every proposition which might tend to the re-establishment of ministerial despotism. Wherefore, then, exclaim against the *veto* of the prince, which is likewise but a right of the people intrusted specially to the prince, since the prince is as much interested as the people in preventing the establishment of aristocracy?

But, it is said, the deputies of the people in the national assembly, being invested with power for a limited time only, and having no share in the executive power, the ill use which they might make of their *veto* can never be attended with such fatal consequences, as those which would ensue where an unremoveable prince opposed a law that was just and reasonable.

In the first place, if the prince hath not the *veto*, who shall hinder the representatives of the people from prolonging, and, soon after, from eternizing their duration? (It was thus that the long parliament overturned the political liberty of Great Britain, and not, as you have been told, by suppressing the house of peers.) Nay, who shall hinder them from appropriating to themselves that part of the executive power which disposes of employments and favours? Will there be wanting pretexts to justify this usurpation? Places filled so scandalously! Favours prostituted so unworthily! &c.

Secondly, the *veto*, whether of the prince or of the deputies to the National Assembly, possesses no other virtue than that of quashing a single proposition: there can result, then, from the *veto*, of whatever kind it be, only an inaction of the executive power with respect to the measure in question.

Thirdly, the *veto* of the prince may, doubtless, oppose the passing of a good law; but it may likewise preserve us from a bad one, the possibility of which last is incontestable.

Fourthly, I will suppose that the *veto* of the prince does actually prevent the enactment of a law framed with the deepest wisdom, and most advantageous to the nation; what will be the consequence, *if the annual return of the National Assembly be as solidly secured as the crown upon the head of him who wears it*; that is to say, if the annual return of the National Assembly be secured by a law *truly constitutional*, which forbids, under pain of conviction of incapability, the proposing either the grant of any kind of impost, or of the military establishment, for more than one year? Let us suppose that the prince hath made use of his *veto*; the assembly will first determine, whether the use which he hath made of it is, or is not, followed by consequences inimical to liberty. In the second case, the difficulty raised by the interposition of the *veto* being found of no avail, or of very slight importance, the National Assembly will vote the impost and the army for the ordinary term, and then all will remain in the order already established.

In the first case, the assembly will have divers means of influencing the king's will; it may refuse the taxes; it may refuse the army; it may refuse both one and the other, or merely vote them for a very short term. Whatever may be the measure adopted by the assembly, the prince, threatened with a paralytick stroke to the executive power at a certain period, is reduced to the sole expedient of appealing to his people by a dissolution of the assembly.

If, then, at such a juncture the people should return the same deputies to the assembly, will it not necessarily follow that the prince must *obey*? for that is the true word, whatever idea he may hitherto have conceived of his pretended sovereignty, when he ceases to agree in opinion with his people, and the people knows what it is about.

Suppose now the right of the *veto* taken away from the prince, and the prince obliged to sanction an unjust law; you have no longer any hope but in a general insurrection, the happiest issue of which would probably prove more fatal to the unworthy representatives of the people than the dissolution of their assembly. But is it very certain that such an insurrection would prove fatal only to the unworthy representatives of the people?—I see there still a resource for the partisans of ministerial despotism. I see there the imminent danger to the publick peace disturbed, and perhaps violated. I see there the almost inevitable combustion, but too long dreaded in a state where a revolution so necessary, but yet so rapid, hath sown the seeds of division and hatred, which the establishment of the constitution, by the successive labours of the assembly, alone can stifle in their birth.

You see, gentlemen, I have all along supposed the permanence of the National Assembly, and have even drawn from it all my arguments in favour of the royal sanction, which appears to me the impregnable rampart of political liberty, provided the king can never persist in his *veto* without dissolving, nor dissolve without immediately convening another assembly; because the constitution must not suffer the community to be at any time without representatives; provided that a constitutional law declares all the taxes, and even the army, annulled of right, three months after the dissolution of the National Assembly; provided, in fine, that the responsibility of the ministers should always be insisted on with the most inflexible rigour; and, although the affairs of the publick were not to improve, each year, by the progress of the publick understanding, would it not yet be sufficient to glance our eyes upon the formidable extent of our duties, in order to determine us to declare the annuality* of the National Assembly?

* I cannot find this word in Johnson's Dictionary, nevertheless, I adopt it for want of a better. Translator,

The finances alone demand, perhaps for half a century, our legislative labours.

Which of us, I will be bold to ask, hath calculated the immediate action, and the more remote re-action of that multitude of taxes which is crushing us under its weight, upon the general opulence; taxes which we are now sensible that we can no longer do without?

Is there any one of our taxes, the influence of which upon the comfort of the labourer we have dreamt of examining into, comfort without which no nation can ever be rich?

Do you know to what extent inquisitors, spies, and informers, secure the product of some? Are you sufficiently aware, that it is the genius of the treasury to have recourse only to the musket, the gibbet, and the galleys, to prevent the diminution of the rest?

Is it impossible to imagine any thing less ridiculously absurd, less horribly partial, than this system of finance, which our grand financiers have hitherto considered as so well balanced?

Have we clear ideas of property? and are these ideas sufficiently spread abroad amongst men, to assure the laws that they will produce that sort of obedience which the thinking man never refuses, and which the honest man holds in honour?

Will you ever have any publick credit in this kingdom, as long as you have no law to assure you, that the nation annually assembled shall receive from the ministers of the finances, an exact account of their stewardship; that all the creditors of the state may, every year, demand from the nation the payment of the interest due to them; that, in fine, every year the stranger may know where to look for that nation, which will always be afraid of dishonouring itself, a circumstance which will never give the ministry any disquiet?

If you pass from the finances to the code civil and criminal, do you not perceive that the impossibility, at least before a long time hath elapsed, of drawing up one which may prove worthy of you, cannot exempt you from profiting by that knowledge which will be

the acquisition of each year? Will you likewise rely, for those provisional improvements which may be adapted to circumstances, on ministers who will imagine that they have done all, when they shall have said: *The king is acquainted with the whole business, for I have apprized him of the whole business, and I have only executed his positive orders, which I myself told him to give me?*

Perhaps, to remove to a greater distance the return of National Assemblies, they will propose to you an intermediate commission. But this intermediate commission will either do what the National Assembly would have done, and, in that case, I do not see why the latter should not be re-assembled; or it will not be able to do what the Assembly would have done, and, in that case, will not prove a succedaneum. Do you not perceive also, that this commission would become the body from which the ministry would be recruited, and that, in order to attain promotion, the members would insensibly become the docile instruments of court intrigue?

It hath been insisted, that the want of publick spirit is an obstacle to the annual return of the National Assembly. But how are you to form that publick spirit better, than by approximating the periods at which each citizen will be called upon to give proofs of it? Was it possible for that publick spirit to exist, when the fatal division of the orders was absorbing every thing which it did not degrade; when all the citizens, high and low, had no other resources against humiliations and contempt, and no other compensation for their political insignificance,* than the theatre, the chase, intrigue, cabal, gaming, every vice under the cope of heaven?

The immense expense attending an election and an annual National Assembly, hath been urged as an objection against them!

The whole is calculated; three millions form the groundwork of this grand objection. And what are

* Leur nullité

three millions to a nation that pays six hundred, and which would not have three hundred and fifty to pay, if for these thirty years past she had had an annual National Assembly?

It hath even been said to me : *Who will wish to become a member of the National Assembly*, if it is to have annual sessions?—And to these extraordinary words I answer : Not you, who ask the question—but every worthy member of the clergy, who shall be willing and able to prove to the unfortunate, how useful is the clergy—every worthy member of the nobility, who shall be willing and able to prove to the nation, that the nobles likewise can serve it in more ways than one—every member of the commons, who may wish to say to every nobleman, proud of his title, How often have you sate amongst the legislators?

In fine, the English, who have done every thing, yet assemble every year, and always find something to do—and the French, who have every thing to do, are not to assemble every year!—

We shall have, then, a permanent assembly; and this sublime institution will, in itself alone, become a sufficient counterpoise to the royal *veto*.

What! say those who take alarm at a great power, because they judge of it only by its abuses, the royal *veto* to be unlimited! Should there not be a moment determined by the constitution, when this *veto* could no longer shackle the legislative power? Would not that government be a despotism, where the king could say: This is the will of my people; but mine is contrary to it, and it is mine that shall prevail.

They who are troubled with this apprehension, propose what they term a *veto suspensive*: that is to say, that the king shall have the power of refusing his sanction to a legislative project which he disapproves; he shall have the power of dissolving the National Assembly, or of waiting for a new one; but, if that new assembly re-propose to him the same law which he hath already rejected, he shall be obliged to receive it.

Herein consists the whole force of their argumentation. When the king refuses to sanction the law which the National Assembly hath proposed to him, it is to be supposed that he deems that law to be contrary to the interests of the people, or that it encroaches on the executive power, which resides in him, and which it is his duty to defend : in this case, he appeals to the nation, the nation elects a new legislature, intrusts its wishes to its new representatives, consequently it declares its will ; the king then must either submit, or deny the authority of that supreme tribunal, to which he himself had appealed.

This objection is very specious, and if I am able to perceive the falsity of it, it is only from having examined the question under all its aspects ; but we have already had an opportunity of seeing, and it will become still more observable in the course of the debate, that :

1. It supposes falsely that it is impossible that a second legislature should not convey the wishes of the people.

2. It supposes falsely that the king will be tempted to prolong his *veto*, in opposition to the known wish of the nation.

3. It supposes that the *veto suspensive* is attended with no inconveniences ; whereas, in many respects, it hath the same inconveniences as if the king were allowed no *veto*.*

* This arrangement is certainly not what should be expected in a well-digested speech. But when, in consequence of a very defective mode of discussion, they have, among us, rendered it physically impossible to debate, and laid each author of an opinion under the necessity of waiting three days, in order to refute objections which are sometimes forgotten by those who made them (lucky if he gets an opportunity even then) the man who loves the publick welfare better than his own reputation, is obliged thus to anticipate, and, as far as in him lies, to get possession of the assembly beforehand, or he will not have it in his power to reply. I demanded yesterday the liberty of replying ; it was refused me ; I dare believe

It was necessary to render the crown hereditary, in order that it might not prove a perpetual cause of civil dissensions ; thence resulted the necessity of rendering the king's person unblameable and sacred, without which the throne could never have been sheltered from the attempts of the ambitious. Now what power is there not already in the hands of a chief, who is rendered hereditary and inviolable ? Shall his refusing to execute a law, which he deems contrary to those interests, of which his character of head of the executive power makes him guardian—shall such a refusal, I say, suffice to hurl him from his high prerogatives ? That would be destroying with one hand what you had built up with the other ; it would be coupling to a precaution of peace and security, the means most proper to raise continually the most dreadful tempests.

Let us pass from this consideration to the instruments of power, which ought to be in the hands of the supreme head of the nation. It is over five-and-twenty millions of men that he is appointed to command ; it is over every point of an extent of thirty thousand square miles that his power must be, without intermission, ready to show itself for the purposes of protection or defence ; and will any one pretend, that the chief, the lawful depositary of the means which such a power requires, may be obliged to execute laws to which he hath not given consent ?

however, that I had driven the partisans of the *veto suspensive* to their last intrenchments.

I venture to promise that I will invincibly establish these three points against every objection which the partisans of the *veto suspensive* may raise against the royal sanction, when at the conclusion of the debate I shall have liberty to answer them. At present, I only ask them to reflect on the formidable power with which the king of a great empire is necessarily invested, and how dangerous it is to provoke him to turn it against the legislature, as must infallibly happen, if they determine upon any one moment whatever, when he sees no way of escaping the necessity of promulgating a law to which he hath not consented.

Note of M. De Mirabeau.

But, through what dreadful troubles, through what convulsive and sanguinary insurrections would they send us to combat the resistance of the royal power? When the law is under the safeguard of publick opinion, its sway is truly imperious over the ruler whom you have armed with the whole publick force; but which is the moment when we may reckon upon this empire of publick opinion? Is it not when the head of the executive power hath himself given his consent to the law, and when that consent is known to all the citizens? Is it not then, and then alone, that publick opinion sets the law irrevocably above him, and compels him, under pain of becoming an object of general horror, to perform what he hath promised; for his consent, in quality of head of the executive power, is nothing else than a solemn engagement to execute that law on which he hath just conferred his sanction?

And let it not be said, that the generals of armies are depositaries of very important powers, and are, nevertheless, obliged to obey the orders of their superiours, be their opinion what it may with respect to the nature of those orders. The generals of armies are not hereditary chiefs; their persons are not inviolable; their authority ceases in the presence of him whose orders they perform; and, if the comparison is to be pushed still further, we must necessarily admit that those are, for the most part, but very indifferent generals, who carry into execution dispositions which they have not approved. Such then are the dangers which you are going to risk. And for what object? Where is the real efficacy of the *veto suspensive*?

Is it not expedient, as in my system, that the constitution should take certain precautions against the royal *veto*? Should the king overturn those precautions, will he not easily set himself above the law? Your plan, therefore, is useless, even in your own theory; and I will prove it to be dangerous in mine.

The refusal of the royal sanction can be supposed only in two cases:

In that where the monarch should deem that the proposed law would prove injurious to the interests of the nation ; and in that where, deceived by his ministers, he should resist laws that were contrary to their private views.

Now, in both the one and the other of these suppositions, the king, or his ministers, being deprived of the capability of obstructing the law by the peaceful means of a legal *veto*, would they not have recourse to an illegal and violent resistance, according as they considered the law to be of more or less importance ? Can it be doubted that they would prepare their means long before hand ? For it is always easy to form a notion of the degree of attachment which the legislature will entertain for its law. It might happen, then, that the legislature might find itself chained down, at the very moment marked by the constitution for rendering the royal *veto* ineffectual ; whereas, if that *veto* remains always in force, illegal and violent resistance becoming useless to the prince, he can no longer employ it, without revolting, in sight of the whole nation, against the constitution ; a circumstance which soon renders such resistance extremely dangerous for the king himself, and particularly for his ministers. Observe that this danger is no longer the same, when the prince hath only opposed a law to which he hath not consented.

In this latter case, as violent and illegal resistance may always be supported by plausible pretexts, the revolt of the executive power against the constitution always finds partisans, particularly when it is the measure of the monarch. With what facility did not Sweden return into the arms of despotism, by desiring that her king, although hereditary, should be only the passive and blind instrument of the will of the senate !

Let us not, then, arm the king against the legislative power, by letting him perceive any moment whatsoever when his consent might be dispensed with, and when, consequently, he would be no more than a blind and forced executor. Let us be con-

vinced, that the nation will find more safety and tranquillity in laws expressly consented to by its ruler, than in resolutions in which he had no share, and which were repugnant to that power wherewith, in every state of the case, he should be invested. Let us be convinced, that, from the moment we have placed the crown in a particular family, from the moment we have made it the patrimony of the eldest sons, it becomes imprudent to alarm them, by subjecting them to legislative power, the force of which remains in their hands, and where, nevertheless, their opinion might be contemned. This contempt at length attaches to the person; and the depository of all the force of the French empire cannot be contemned, without the greatest danger.

By a consequence of these considerations, which are warranted by the human heart, and by experience, the king ought to have the power of acting upon the national assembly, by sending it back to a re-election. This kind of action is necessary, in order to leave the king a legal and peaceful method of carrying through, in his turn, those laws which he may deem beneficial to the nation, and which the national assembly might be inclined to obstruct: nothing would be less dangerous; for the king must be perfectly sure of the disposition of the nation, before, in order to pass a law, he hath recourse to an election of new members: and when the nation and the king unite in desiring a law, the resistance of the legislature can be ascribed but to two causes; either the corruption of its members, and in that case their removal is a benefit; or a doubt with respect to the publick opinion; and then the best mode of coming to a knowledge of it is, unquestionably, an election of new members.

I sum up all, gentlemen, in one single word: annuity of the National Assembly; annuity of the army; annuity of the taxes; responsibility of the ministers; and the royal sanction, without any written restriction, but completely limited in fact, will be the *palladium* of national freedom, and the most valuable exercise of the liberty of the people.

SPEECH

OF THE HONOURABLE THOMAS ERSKINE,

ON THE TRIAL OF JOHN STOCKDALE, FOR A LIBEL ON THE HOUSE OF COMMONS. TRIED BEFORE THE RIGHT HONOURABLE LLOYD KENYON, CHIEF JUSTICE OF ENGLAND, DECEMBER 9, 1789.

THE pamphlet that gave rise to the trial in which this admirable speech was delivered, was written by the reverend Mr. Logan, who is very advantageously known to the lovers of letters by the variety, the depth, and brilliancy of his works.

Employed in conducting the historical department of the Annual Register, his studies were directed particularly to the affairs of India, which at that time, owing to the impeachment of Warren Hastings, were a subject of lively and general concern throughout the British empire. These investigations, having satisfied his mind of the innocence of Mr. Hastings, and that he was wantonly persecuted by the virulence of party spirit, he voluntarily, and without any venal motive, prepared and gave to the press a round and complete defence of him, in which, with the dexterity of a special pleader he scrutinized, and with the plausibility of an eloquent advocate confuted, every charge on which this *great and good* man was arraigned.

Not long after the pamphlet had been in circulation, Mr. Fox, one of the managers, took occasion to call the attention of the house of commons to certain parts of it which, he alleged, reflected on the purity of the motives of those who had instigated the impeachment, and on the conduct of the house for sanctioning the measures. He then made the ordinary motion to *direct the attorney general to prosecute the author and publishers of the pamphlet, for a libel on the house of commons.*

The publisher, Stockdale, was alone tried. He was acquitted. This decision may be considered as among the most signal triumphs of the liberty of the press, and not the least striking illustration of the importance of trial by jury, to personal security.

SPEECH, &c.

GENTLEMEN OF THE JURY,

MR. STOCKDALE, who is brought as a criminal before you for the publication of this book, has, by employing me as his advocate, reposed what must appear to many an extraordinary degree of confidence; since, although he well knows that I am personally connected in friendship with most of those, whose conduct and opinions are principally arraigned by its author, he nevertheless commits to my hands his defence and justification.

A trust apparently so delicate and singular, vanity is but too apt to whisper an application of to some fancied merit of one's own; but it is proper, for the honour of the English bar, that the world should know such things happen to all of us daily, and of course; and that the defendant, without any sort of knowledge of me, or any confidence that was personal, was only not afraid to follow up an accidental retainer, from the knowledge he has of the general character of the profession.

Happy indeed is it for this country, that whatever interested divisions may characterize other places, of which I may have occasion to speak to day, however the counsels of the highest departments of the state may be occasionally distracted by personal considerations, they never enter these walls to disturb the administration of justice: Whatever may be *our* publick principles, or the private habits of *our* lives, they never cast even a shade across the path of our professional duties.

If this be the characteristick even of the bar of an English court of justice, what sacred impartiality may not every man expect from its jurors and its bench?

As from the indulgence which the court was yesterday pleased to give to my indisposition, this information was not proceeded on when you were attending to try it, it is probable you were not altogether inat-

tentive to what passed on the trial of the other indictment, prosecuted also by the house of commons; and therefore, without a restatement of the same principles, and a similar quotation of authorities to support them, I need only remind you of the law applicable to this subject, as it was then admitted by the attorney general, in concession to my propositions, and confirmed by the higher authority of the court, viz.

First, that every information or indictment must contain such a description of the crime that the defendant may know what crime it is which he is called upon to answer.

Secondly, that the jury may appear to be warranted in their conclusion of guilty or not guilty.

And lastly, that the court may see such a precise and definite transgression upon the record as to be able to apply the punishment which judicial discretion may dictate, or which positive law may inflict.

It was admitted also to follow as a mere corollary from these propositions, that where an information charges a writing to be composed or published of and concerning the commons of Great Britain, with an intent to bring that body into scandal and disgrace with the publick, the author cannot be brought within the scope of such a charge, unless the jury, on examination and comparison of the whole matter, written or published, shall be satisfied that the particular passages charged as criminal, when explained by the context, and considered as part of one entire work, were meant and intended by the author to vilify the house of commons as a body, and were written of, and concerning them, in parliament assembled.

These principles being settled, we are now to see what the present information is.

It charges, that the defendant "unlawfully, wickedly, and maliciously devising, contriving and intending to asperse, scandalize and vilify, the commons of Great Britain in parliament assembled, and most wickedly and audaciously to represent their proceedings as corrupt and unjust, and to make it believed

and thought, as if the commons of Great Britain in parliament assembled, were a most wicked, tyrannical base, and corrupt set of persons, and to bring them into disgrace with the publick." The defendant published—What?—Not those latter ends of sentences, which the attorney general has read from his brief, as if they had followed one another in order in this book ;—Not those scraps and tails of passages which are patched together upon this record, and pronounced in one breath, as if they existed without intermediate matter in the same page, and without context any where.—No.—This is not the accusation, even mutilated as it is : for the information charges, that with intention to vilify the house of commons, the defendant published the whole book, describing it on the record by its title : " A Review of the principal charges against Warren Hastings, Esquire, late governour general of Bengal ;" in which amongst other things the matter particularly selected is to be found. Your inquiry, therefore, is not confined to, Whether the defendant published those select parts of it ; and whether looking at them as they are distorted by the information, they carry in fair construction, the sense and meaning which the innuendos put upon them ; but whether the author of the intire work,—I say the author, since, if he could defend himself, the publisher unquestionably can ; whether the author wrote the volume which I hold in my hand, as a free, manly, bona fide disquisition of criminal charges against his fellow citizens ; or whether the long eloquent discussion of them, which fills so many pages, was a mere cloak and cover for the introduction of the supposed scandal imputed to the selected passages ; the mind of the writer all along being intent on traducing the house of commons, and not on fairly answering their charges against Mr. Hastings.

This, gentlemen, is the principal matter for your consideration ; and therefore, if after you shall have taken the book itself into the chamber which will be provided for you, and read the whole of it with impartial attention ;—if after the performance of this duty,

you can return here and with clear consciences pronounce upon your oaths that the impression made upon you by these pages is, that the author wrote them with the wicked, seditious, and corrupt intentions, charged by the information; you have then my full permission to find the defendant guilty. But if, on the other hand, the general tenour of the composition should impress you with respect for the author, and point him out to you as a man mistaken perhaps himself, but not seeking to deceive others:—If every line of the work shall present to you an intelligent animated mind, glowing with a Christian compassion towards a fellow man, whom he believed to be innocent, and with a patriot zeal for the liberty of his country, which he considered as wounded through the sides of an oppressed fellow citizen; if this shall be the impression on your consciences and understandings, when you are called upon to deliver your verdict; then hear from me, that you not only work private injustice, but break up the press of England, and surrender her rights and liberties forever if you convict him.

Gentlemen, to enable you to form a true judgment of the meaning of this book, and of the intention of its author, and to expose the miserable juggle that is played off in the information, by the combination of sentences, which in the work itself have no bearing upon one another—I will first give you the publication, as it is charged on the record, and presented by the Attorney General in opening the case for the Crown; and I will then by reading the interjacent matter which is studiously kept out of sight, convince you of its true interpretation. The information, beginning with the first page of the book, charges, as a libel upon the house of commons, the following sentence:

“The house of commons has now given its final decision, with regard to the merits and demerits of Mr. Hastings. The grand inquest of England have delivered their charges, and preferred their impeachment; their allegations are referred to proof; and

from the appeal to the collective wisdom and justice of the nation in the supreme tribunal of the kingdom, the question comes to be determined, whether Mr. Hastings be guilty or not guilty ?”

It is but fair, however, to admit that the first sentence, which the most ingenious malice cannot torture into a criminal construction, is charged by the information rather as introductory to what is made to follow it, than as libellous in itself; for the attorney general, from this introductory passage in the first page, goes on at a leap to page thirteenth, and reads almost without a stop, as if it immediately followed the other.

“ What credit can we give to multiplied and accumulated charges, when we find that they originate from misrepresentation and falsehood ?”

From these two passages thus standing together without the intervenient matter which occupies thirteen pages, one would imagine that instead of investigating the probability or improbability of the guilt imputed to Mr. Hastings; instead of carefully examining the charges of the commons, and the defence of them which had been delivered before them, or which was preparing for the Lords; the author immediately, and in a moment after stating the mere fact of the impeachment, had decided that the act of the commons originated from misrepresentation and falsehood.

Gentlemen, in the same manner a veil is cast over all that is written in the next seven pages: for knowing that the context would help to the true construction, not only of the passages charged before, but of those in the sequel of this information; the attorney general, aware that it would convince every man who read it, that there was no intention in the author to calumniate the house of commons, passes over, by another leap, to page twenty; and in the same manner, without drawing his breath, and as if it directly followed the two former sentences, in the 1st and 13th pages, reads from page 20.

“ An impeachment of error in judgment with regard to the quantum of fine, and for an intention that never was executed and never known to the offending party, characterizes a tribunal of inquisition rather than a court of parliament.”

From this passage, by another vault, he leaps over one and thirty pages more, to page fifty-one; where he reads the following sentence, which he mainly relies on, and upon which I shall by and by trouble you with some observations.

“ Thirteen of them passed in the house of commons, not only without investigation but without being read; and the votes were given without inquiry, argument, or conviction. A majority had determined to impeach; opposite parties met each other, and jostled in the dark, to perplex the political drama, and bring the hero to a tragick catastrophe.”

From thence deriving new vigour from every exertion, he makes his last grand stride over forty-four pages, almost to the end of the book, charging a sentence in the ninety-fifth page.

So that out of a volume of one hundred and ten pages, the defendant is only charged with a few scattered fragments of sentences, picked out of three or four. Out of a work, consisting of about two thousand five hundred and thirty lines, of manly spirited eloquence, only forty or fifty lines are culled from different parts of it, and artfully put together, so as to rear up a libel, out of a false context by a supposed connexion of sentences with one another which are not only entirely independent, but which, when compared with their antecedents bear a totally different construction.

In this manner the greatest works upon government, the most excellent books of science, the sacred scriptures themselves, might be distorted into libels, by forsaking the general context, and hanging a meaning upon selected parts:—Thus, as in the text put by Algernon Sidney, “ The fool has said in his heart there is no God.” The attorney general on the principle of the present proceeding against this

pamphlet, might indict the publisher of the Bible for blasphemously denying the existence of heaven, in printing "There is no God." For these words alone, without the context, would be selected by the information; and the bible, like this book, would be underscored to meet it. Nor could the defendant in such a case have any possible defence, unless the jury were permitted to see, by the book itself, that the verse, instead of denying the existence of the Divinity, only imputed that imagination to a fool.

Gentlemen, having now gone through the attorney general's reading, the book shall presently come forward and speak for itself.

But before I can venture to lay it before you, it is proper to call your attention to how matters stood at the time of its publication; without which the author's meaning and intention cannot possibly be understood.

The commons of Great Britain in parliament assembled, had accused Mr. Hastings, as governor general of Bengal, of high crimes and misdemeanors; and their jurisdiction for that high purpose of national justice, was unquestionably competent. But it is proper you should know the nature of this inquisitorial capacity.—The commons in voting an impeachment, may be compared to a grand jury, finding a bill of indictment for the crown: neither the one nor the other can be supposed to proceed, but upon the matter which is brought before them; neither of them can find guilt without accusation, nor the truth of accusation without evidence.

When, therefore, we speak of the accuser or accusers, of a person indicted for any crime, although the grand jury are the accusers in form, by giving effect to the accusation; yet in common parlance we do not consider them the responsible authors of the prosecution. If I were to write of a most wicked indictment, found against an innocent man, which was preparing for trial, nobody who read it would conceive I meant to stigmatize the grand jury that

found the bill; but it would be inquired immediately, who was the prosecutor, and who were the witnesses on the back of it. In the same manner I mean to contend, that if this book is read with only common attention, the whole scope of it will be discovered to be this :

That in the opinion of the author, Mr. Hastings had been accused of malicious administration in India, from the heat and spleen of political divisions in parliament, and not for any zeal for national honour or justice; that the impeachment did not originate from government, but from a faction banded against it, which, by misrepresentation and violence, had fastened it on an unwilling house of commons; that prepossessed with this sentiment (which however unfounded, makes no part of the present business, since the publisher is not called before you for defaming individual members of the commons, but for a contempt of the commons as a body) the author pursues the charges, article by article; enters into a warm and animated vindication of Mr. Hastings, by regular answers to each of them; and that as far as the mind and soul of a man can be visible, I might almost say embodied in his writings, his intention throughout the whole volume appears to have been to charge with injustice the private accusers of Mr. Hastings, and not the house of commons as a body; which, undoubtedly, rather reluctantly gave way to, than heartily adopted the impeachment.

This will be found to be the palpable scope of the book; and no man who can read English, and who at the same time, will have the candour and common sense to take up his impressions from what is written in it, instead of bringing his own along with him to the reading of it, can possibly understand it otherwise.

But it may be said, that admitting this to be the scope and design of the author, what right had he to canvass the merits of an accusation upon the records of the commons; more especially while it was in the course of legal procedure. This I confess might

have been a serious question; but the commons as prosecutors of this information, seem to have waved, or forfeited their right to ask it.

Before they sent the attorney general into this place, to punish the publication of answers to their charges, they should have recollected that their own want of circumspection in the maintenance of their privileges, and in the protection of persons accused before them, had given to the publick the charges themselves, which should have been confined to their own journals. The course and practice of parliament might warrant the printing of them for the use of their own members, but there the publication should have stopt, and all further progress been resisted by authority.

If they were resolved to consider answers to their charges as a contempt of their privileges, and to punish the publication of them by such severe prosecutions, it would have well become them to have begun first with those printers, who, by publishing the charges themselves throughout the whole civilized kingdom, or rather throughout the whole civilized world, were anticipating the passions and judgments of the publick against a subject of England upon his trial, so as to make the publication of answers to them not merely a privilege, but a debt and duty to humanity and justice.

The commons of Great Britain claimed and exercised the privileges of questioning the innocence of Mr. Hastings by their impeachment; but as, however questioned, it is still to be presumed and protected, until guilt is established by judgment, he whom they had accused, had an equal claim upon their justice, to guard him from prejudice and misrepresentation until the hour of trial.

Had the commons therefore, by the exercise of their high, necessary, and legal privileges, kept the publick aloof from all canvass of their proceedings, by an early punishment of printers, who without reserve or secrecy, sent out the charges into the world from a thousand presses, in every form of publication, they would have then stood upon ground to day from

whence no argument of policy or justice could have removed them ; because nothing can be more incompatible with either, than appeals to the many upon subjects of judicature, which by common consent a few are appointed to determine, and which must be determined by facts and principles, which the multitude have neither leisure nor knowledge to investigate. But then let it be remembered, that it is for those who have the authority to accuse and punish, to set the example of, and to enforce this reserve, which is so necessary for the ends of justice.

Courts of law therefore in England never endure the publication of their records ; and a prosecutor of an indictment would be attached for such a publication ; and upon the same principle, a defendant would be punished for anticipating the justice of his country, by the publication of his defence, the publick being no party to it until the tribunal appointed for its determination be open for its decision.

Gentlemen, you have a right to take judicial notice of these matters, without the proof of them by witnesses ; for jurors may not only without evidence found their verdicts on facts that are notorious, but upon what they know privately themselves, after revealing it upon oath to one another ; and therefore you are always to remember, that this book was written when the charges against Mr. Hastings, to which it is an answer, were, to the knowledge of the commons (for we cannot presume our watchmen to have been asleep) publickly hawked about in every pamphlet, magazine, and newspaper in the kingdom.

Gentlemen, you well know with what a curious appetite these charges were devoured by the whole publick, interesting as they were, not only from their importance, but from the merit of their composition ; certainly not so intended by the honourable and excellent composer to oppress the accused, but because the commonest subjects, swell into eloquence under the touch of his sublime genius.

Thus by the remissness of the commons who are now the prosecutors of this information, a subject of

England who was not even charged with contumacious resistance to authority, much less a proclaimed outlaw, and therefore fully entitled to every protection which the customs and statutes of the kingdom hold out for the protection of British liberty, saw himself pierced with the arrows of thousands and ten thousands of libels.

Gentlemen, before I venture to lay the book before you, it must be yet further remembered (for the fact is equally notorious) that under these inauspicious circumstances, the trial of Mr. Hastings at the bar of the Lords had actually commenced long before its publication.

There the most august and striking spectacle was daily exhibited, which the world in any age of it ever witnessed. A vast stage of justice was erected, awful from its high authority, splendid from its illustrious dignity, venerable from the learning and wisdom of its judges, captivating and affecting from the mighty concourse of all ranks and conditions which daily flocked into it, as into a theatre of pleasure; there when the whole publick mind was at once awed and softened to the impression of every human affection, there appeared, day after day, one after another, men of the most powerful and exalted talents, eclipsing by their accusing eloquence the most boasted harangues of antiquity; rousing the pride of national resentment, by the boldest invectives against broken faith and violated treaties, and shaking the bosom with alternate pity and horror, by the most glowing pictures of insulted nature and humanity; ever animated and energetick from the love of fame, which is the inherent passion of genius; firm and indefatigable from a strong prepossession of the justice of their cause.

Gentlemen, when the author sat down to write the book now before you, all this terrible, unceasing, exhaustless artillery of warm zeal, matchless vigour of understanding, consuming and devouring eloquence, united with the highest dignity, was daily, and without prospect of conclusion, pouring forth upon one private unprotected man, who was bound

to hear it, in the face of the whole people of England, with reverential submission and silence.

Gentlemen, I do not complain of this as I did of the publication of the charges; because it is what the law allowed, and sanctioned in the course of a publick trial; but when it is remembered that we are not angels, but weak fallible men, and that even the noble judges of that high tribunal are clothed, beneath their ermines, with the common infirmities of man's nature, it will bring us all to a proper temper for considering the book itself, which will in a few moments be laid before you.

Gentlemen, it was under all these circumstances, and amidst the blaze of passion and prejudice, which the scene I have been endeavouring faintly to describe to you might be supposed likely to produce, that the author, whose name I will now give to you, sat down to compose the book which is prosecuted to day as a libel.

The history of it is very short and natural.

The reverend Mr. Logan, minister of the gospel at Leith in Scotland, a clergyman of the purest morals, and as you will see by and by of very superiour talents, well acquainted with the human character, and knowing the difficulty of bringing back publick opinion after it is settled on any subject, took a warm, unbought, unsolicited interest in the situation of Mr. Hastings, and determined if possible, to arrest and suspend the publick judgment concerning him. He felt for the situation of a fellow-citizen, exposed to a trial which, whether right or wrong, is undoubtedly a severe one; a trial certainly not confined to a few criminal acts, like those we are accustomed to, but comprehending the transactions of a whole life, and the complicated policies of entire nations; a trial, which had neither visible limits to its duration, bounds to its expense, nor circumscribed compass for the grasp of memory or understanding; a trial, which had therefore broke loose from the common forum of decision, and had become the universal topick of discussion in the world, superseding not only every

other grave pursuit, but every other fashionable dissipation.

Gentlemen, the question you have therefore to try upon all this matter, is extremely simple; it is neither more nor less than this: At a time when the charges against Mr. Hastings were, by the implied consent of the commons, in every hand, and on every table; when by their managers, the lightning of eloquence was incessantly consuming him, and flashing in the eyes of the publick; when every man was with perfect impunity saying, and writing, and publishing just what he pleased of the supposed plunderer and devastator of nations; would it have been criminal in Mr. Hastings himself to have reminded the publick that he was a native of this free land, entitled to the common protection of her justice, and that he had a defence in his turn to offer to them, the outlines of which he employed them in the mean time to receive as an antidote to the unlimited and unpunished poison in circulation against him?

Gentlemen, this is, without colour or exaggeration, the true question you are to decide. For I assert, without the hazard of contradiction, that if Mr. Hastings himself could have stood justified or excused in your eyes, for publishing this volume in his own defence, the author if he wrote it *bona fide* to defend him, must stand equally excused and justified; and if the author be justified, the publisher cannot be criminal, unless you have evidence that it was published by him, with a different spirit and intention from those in which it was written. The question therefore is correctly what I just now stated it to be: Could Mr. Hastings have been condemned to infamy for writing this book?

Gentlemen, I tremble with indignation to be driven to put such a question in England. Shall it be endured, that a subject of this country, instead of being arraigned and tried for some single act in her ordinary courts, where the accusation, as soon at least as it is made publick, is followed in a few hours by the decision, may be impeached by the commons for the

transactions of twenty years, that the accusation shall spread as wide as the region of letters, and the accused shall stand day after day, and year after year, as a spectacle before the publick, which shall be kept in a perpetual state of inflammation against him; yet that he shall not without the severest penalties be permitted to submit any thing to the judgment of mankind in his defence. If this be law (which it is for you to day to decide,) such a man has no trial; that great hall, built by our fathers for English justice, is no longer a court, but an altar; and an Englishman, instead of being judged in it by GOD AND HIS COUNTRY, IS A VICTIM AND A SACRIFICE.—Gentlemen, you will carefully remember, that I am not presuming to question either the right or the duty of the commons of Great Britain to impeach; neither am I arraigning the propriety of their selecting, as they have done, the most extraordinary persons for ability which the age has produced to manage their impeachment. Much less am I censuring the managers themselves; charged with the conduct of it before the lords, who were undoubtedly bound by their duty to the house, and to the publick to expatiate upon the crimes of the persons whom they had accused.

None of these points are questioned by me, nor are in this place questionable. I only desire to have it decided, whether if the commons, when national expediency happens to call in their judgment for an impeachment, shall, instead of keeping it on their own records, and carrying it with due solemnity to the peers for trial, permit it without censure and punishment to be sold like a common newspaper in the shop of my client, so crowded with their own members, that no plain man, without privilege of parliament, can hope even for a sight of the fire in a winter's day; every man buying it, reading it, and commenting upon it; the gentleman himself who is the object of it, or his friend in his absence, may not, without stepping beyond the bounds of English freedom, put a copy of what is thus published into his

pocket, and send back to the very same shop for publication a *bona fide*, rational, able answer to it, in order that the bane and antidote may circulate together, and the publick be kept straight till the day of decision.

Gentlemen, if you think that this common duty of self preservation, in the accused himself, which nature writes as a law upon the hearts of even savages and brutes, is nevertheless too high a privilege to be enjoyed by an impeached and suffering Englishman; or if you think it beyond the office of humanity and justice, when brought home to the hand of a brother or a friend, you will say so by your verdict of *guilty*. The decision will then be yours; and the consolation mine, that I laboured to avert it. A very small part of the misery which will follow from it is likely to light upon me; the rest will be divided amongst yourselves and your children. Gentlemen I observe plainly, and with infinite satisfaction, that you are shocked and offended at my even supposing it possible you should pronounce such a detestable judgment; and that you only require of me to make out to your satisfaction (as I promised) that the real scope and object of this book is a *bona fide* defence of Mr. Hastings, and not a cloak and cover for scandal on the house of commons. Gentlemen I engage to do this, and I engage for nothing more; I shall make an open manly defence. I mean to torture no expressions from their natural constructions, to dispute no inuendos on the record, should any of them have a fair application; nor to conceal from your notice any unguarded intemperate expressions, which may perhaps be found to chequer the vigorous and animated career of the work. Such a conduct might by accident, shelter the defendant; but it would be a surrender of the very principle on which alone the liberty of the English press can stand; and I shall never defend any man from a temporary imprisonment by the permanent loss of my own liberty, and the ruin of my country. I mean therefore to submit to you, and though you should find a few lines, in page thir-

teen, or twenty-one ; a few more in page fifty-one ; and some others in other places ; containing expressions bearing on the house of commons, even as a body, which, if written as independent paragraphs by themselves, would be indefensible libels ; yet that you have a right to pass them over in judgment, provided the substance clearly appears to be a bona fide conclusion, arising from the honest investigation of a subject which it was lawful to investigate, and the questionable expressions, the visible effusion of a zealous temper, engaged in an honourable and legal pursuit. After this preparation I am not afraid to lay the book in its genuine state before you.

The pamphlet begins thus : “ The house of commons has now given its final decision with regard to the merits and demerits of Mr. Hastings. The grand inquest of England have delivered their charges, and preferred their impeachment ; their allegations are referred to proof ; and from the appeal to the collective wisdom and justice of the nation in the supreme tribunal of the kingdom, the question comes to be determined, whether Mr. Hastings be guilty or not guilty ? ”

Now if immediately after what I have just read to you, (which is the first part charged by the information) the author had said : “ Will accusations, built on such a baseless fabrick, prepossess the publick in favour of the impeachment ? What credit can we give to multiplied and accumulated charges, when we find that they originate from mirepresentation and falsehood ? ” Every man would have been justified in pronouncing that he was attacking the house of commons, because the groundless accusations mentioned in the second sentence, could have no reference but to the house itself, mentioned by name in the first and only sentence which preceded it.

But, gentlemen, to your astonishment, I will now read what intervenes between these two passages ; from which you will see, beyond a possibility of doubt, that the author never meant to calumniate the house of commons, but to say that the accusa-

tion of Mr. Hastings before the whole house grew out of a committee of secrecy established some years before, and was afterwards brought forward by the spleen of private enemies, and a faction in the government. This will appear, not only from the grammatical construction of the words, but from what is better than words ; from the meaning which a person writing as the friend of Mr. Hastings must be supposed to have intended to convey. Why should such a friend attack the house of commons ? Will any man gravely tell me, that the house of commons, as a body, ever wished to impeach Mr. Hastings ? Do we not all know that they constantly hung back from it, and hardly knew where they were, or what to do, when they found themselves entangled with it ? My learned friend the attorney general is a member of this assembly ; perhaps he may tell you by and by what he thought of it, and whether he ever marked any disposition in the majority of the commons hostile to Mr. Hastings. But why should I distress my friend by the question ; the fact is sufficiently notorious ; and what I am going to read from the book itself, (which is left out in the information) is too plain for controversy.

“ Whatever may be the event of the impeachment, the proper exercise of such power is a valuable privilege of the British constitution, a formidable guardian of the publick liberty and the dignity of the nation. The only danger is, that from the influence of faction, and the awe which is annexed to great names, they may be prompted to determine before they inquire, and to pronounce judgment without examination.”

Here is the clue to the whole pamphlet. The author trusts to and respects the house of commons, but is afraid their mature and just examination will be disturbed by faction.

Now, does he mean government by faction ? Does he mean the majority of the commons by faction ? Will the house, which is the prosecutor here, sanction that application of the phrase ; or will the attorney general admit the majority to be the true innuendo of

faction? I wish he would; I should then have gained something at least by this extraordinary debate; but I have no expectation of the sort; such a concession would be too great a sacrifice to any prosecution, at a time when every thing is considered as faction that disturbs the repose of the minister in parliament. But indeed, gentlemen, some things are too plain for argument. The author certainly means my friends, who, whatever qualifications may belong to them, must be contented with the appellation of faction while they oppose the minister in the house of commons; but the house, having given this meaning to the phrase of faction for its own purposes, cannot in decency change the interpretation in order to convict my client. I take that to be beyond the privilege of parliament.

The same bearing upon individual members of the commons, and not on the commons as a body, is obvious throughout. Thus after saying, in page 9, that the East India company had thanked Mr. Hastings for his meritorious services (which is unquestionably true) he adds, "That mankind would abide by their deliberate decision, rather than by the intemperate assertion of a committee."

This he writes after the impeachment was found by the commons at large; but he takes no account of their proceedings, imputing the whole to the original committee, i. e. the committee of secrecy; so called, I suppose, from their being the authors of twenty volumes in folio, which will remain a secret to all posterity, as nobody will ever read them. The same construction is equally plain from what immediately follows:

"The report of the committee of secrecy also states, that the happiness of the native inhabitants of India, has been deeply affected, their confidence in English faith and lenity shaken and impaired, and the character of this nation wantonly and wickedly degraded."

Here again you are grossly misled by the omission of near twenty-one pages. For the author though he

is here speaking of this committee by name which brought forward the charges to the notice of the house, and which he continues to do onward to the next selected paragraph; yet by arbitrarily sinking the whole context, he is taken to be speaking of the house as a body, when in the passage next charged by the information, he reproaches the accusers of Mr. Hastings. Although so far is he from considering them as the charges of the house of commons, that in the very same page he speaks of them as the charges, not even of the committee, but of Mr. Burke alone, the most active and intelligent member of that body; and as having been circulated in India by a relation of that gentleman.

“The charges of Mr. Burke have been carried to Calcutta, and carefully circulated in India.”

Now if we were considering these passages of the work as calumniating a body of gentlemen, many of whom I must be supposed highly to respect, or as reflecting upon my worthy friend whose name I have mentioned, it would give rise to a totally different inquiry, which it is neither my duty nor yours to agitate; but surely the more that consideration obtrudes itself upon us, the more clearly it demonstrates, that the author's whole direction was against the individual accusers of Mr. Hastings, and not against the house of commons, which merely trusted to the matter they had collected.

Although, from a caution which my situation dictates as representing another, I have thought it my duty thus to point out to you the real intention of the author, as it appears by the fair construction of the work, yet I protest that in my own apprehension it is very immaterial whether he speaks of the committee or of the house, provided you will think the whole volume a *bona fide* defence of Mr. Hastings. This is the great point I am, by all my observations, endeavouring to establish, and which I think no man who reads the following short passages can doubt. Very intelligent persons have indeed considered them, if

founded in facts, to render every other amplification unnecessary. The first of them is as follows :

“ It was known, at that time, that Mr. Hastings had not only descended from a publick to a private station, but that he was persecuted with accusations and impeachments. But none of these suffering millions have sent their complaints to this country : not a sigh nor a groan has been wafted from India to Britain. On the contrary, testimonies the most honourable to the character and merit of Mr. Hastings, have been transmitted by those very princes whom he has been supposed to have loaded with the deepest injuries.”

Here, Gentlemen, we must be permitted to pause together a little ; for in examining whether these pages were written as an honest answer to the charge of the commons, or as a prostituted defence of a notorious criminal, whom the writer believed to be guilty, truth becomes material at every step. For if in any instance he be detected of a wilful misrepresentation, he is no longer an object of your attention.

Will the attorney general proceed then to detect the hypocrisy of our author, by giving us some detail of the proofs by which these personal enormities have been established, and which the writer must be supposed to have been acquainted with ? I ask this as the defender of Mr. Stockdale, not of Mr. Hastings, with whom I have no concern. I am sorry, indeed, to be so often obliged to repeat this protest ; but I really feel myself embarrassed with those repeated coincidences of defence which thicken on me as I advance, and which were, no doubt, overlooked by the commons when they directed this interlocutory inquiry into his conduct.

I ask then, as counsel for Mr. Stockdale, whether, when a great state criminal is brought for justice at an immense expense to the publick, accused of the most oppressive cruelties, and charged with the robbery of princes and the destruction of nations ; it is not open to any one to ask, who are his accusers ? What are the sources and the authorities of these shocking com-

plaints?—Where are the ambassadours or memorials of those princes whose revenues he has plundered?—Where are the witnesses for those unhappy men in whose persons the rights of humanity have been violated?—How deeply buried is the blood, of the innocent that it does not rise up in retributive judgment to confound the guilty! These surely are questions, which, when a fellow-citizen is upon a long, painful, and expensive trial, humanity has a right to propose; which the plain sense of the most unlettered man may be expected to dictate, and which all history must prove from the more enlightened.

When CICERO impeached VERRÉS before the great tribunal of Rome of similar cruelties and depredations in her provinces, the Roman people were not left to such inquiries. ALL SICILY surrounded the forum, demanding justice upon her plunderer and spoiler, with tears and imprecations. It was not by the eloquence of the orator, but by the cries and tears of the miserable, that Cicero prevailed in that illustrious cause. VERRÉS fled from the oaths of his accusers, and their witnesses, and not from the voice of TULLY; who to preserve the fame of his eloquence, published the five celebrated speeches which were never delivered against the criminal, because he had fled from the city appalled with the sight of the persecuted and the oppressed.

It may be said, that the cases of Sicily and India are widely different; perhaps they may; whether they are or not is foreign to my purpose. I am not bound to deny the possibility of answers to such questions; I am only vindicating the right to ask them. Gentlemen, the author, in the other passage which I marked out to your attention, goes on thus:

“Sir John Macpherson, and lord Cornwallis, his successors in office, has given the same voluntary tribute of approbation to his measures as governor general of India. A letter from the former, dated the 10th of August 1786, gives the following account of our dominions in Asia: ‘The native inhabitants of this kingdom are the happiest and best protected sub-

jects in India, our native allies and tributaries confide in our protection, the country powers are aspiring to the friendship of the English; and from the King of Tidore, towards New Guinea, to Timur Shaw, on the banks of the Indus, there is not a state that has not lately given us proofs of confidence and respect." Still pursuing the same test of sincerity, let us examine this defensive allegation.

Will the attorney general say that he does not believe such a letter from lord Cornwallis ever existed? No: For he knows that it is as authentick as any document from India, upon the table of the house of commons. What then is the letter? The native inhabitants of this kingdom, says lord Cornwallis, (writing from the very spot) are the happiest and best protected subjects in India, &c. &c. &c. The inhabitants of this kingdom! Of what kingdom? Why, of the very kingdom which Mr. Hastings had just returned from governing for thirteen years, and for the misgovernment and desolation of which, he stands every day as a criminal, or rather as a spectacle, before us. This is matter for serious reflection, and fully entitles the author to put the question which immediately follows:"

"Does this authentick account of the administration of Mr. Hastings, and of the state of India, correspond with the gloomy picture of despotism and despair, drawn by the committee of secrecy?"

Had that picture been even drawn by the commons itself, he would have been fully justified in asking this question; but you observe it has no bearing on it; the last words not only entirely destroys that interpretation, but also the meaning of the very next passage, which is selected by the information as criminal, viz.

"What credit can we give to multiplied and accumulated charges when we find that they originate from misrepresentation and falsehood?"

This passage, which is charged as a libel on the commons, when thus compared with its immediate antecedent, can bear but one construction. It is im-

possible to contend that it charges misrepresentation on the house of commons that found the impeachment, but upon the committee of secrecy just before adverted to, who were supposed to have selected the matter, and brought it before the whole house for judgment.

I do not mean, as I have often told you, to vindicate any calumny on that honourable committee, or upon any individual of it, any more than upon the commons at large; but the defendant is not charged by this information with any such offences.

Let me here pause once more to ask you, whether the book in its genuine state, as far as we have advanced in it, makes the same impression on your minds now, as when it was first read to you in detached passages; and whether, if I were to tear off the first part of it which I hold in my hand, and give it to you as an entire work, the first and last passages which have been selected as libels on the commons, would now appear to be so when blended with the interjacent parts. I do not ask your answer. I shall have it in your verdict. The question is only put to direct your attention in pursuing the remainder of the volume to this main point: Is it an honest, serious defence? For this purpose, and as an example for all others, I will read the author's entire answer to the first article of charge concerning Cheit Sing, the Zemindar of Benares, and leave it to your impartial judgments to determine; whether it be a mere cloak and cover for the slander imputed by the information to the concluding sentence of it, which is the only part attacked; or whether, on the contrary, that conclusion itself, when embodied with what goes before it, does not stand explained and justified?

"The first article of impeachment (continues our author) is concerning Cheit Sing, the Zemindar of Benares. Bulwant Sing, the father of this rajah, was merely an aumil, or farmer and collector of the revenues for Sujah ul Doulah, nabob of Oude, and vizier of the Mogul empire. When, on the decease of his father, Cheit Sing was confirmed in the office of collector for the vizier, he paid 200,000 pounds as

a gift of Nuzzeranah and an additional rent of 30,000 pounds per annum.

“As the father was no more than an aumil, the son succeeded only to his rights and pretensions. But by a sunnud granted to him by the nabob Sijah Dowlah in September 1773, through the influence of Mr. Hastings, he acquired a legal title to property in the land, and was raised from the office of aumil to the rank of Zemindar. About four years after the death of Bulwant Sing, the governour general and council of Bengal obtained the sovereignty paramount of the province of Benares. On the transfer of this sovereignty the governour and council proposed a new grant to Cheit Sing, confirming his former privileges, and conferring upon him the addition of the sovereign rights of the mint and the powers of criminal justice with regard to life and death. He was then recognised by the company as one of their Zemindars; a tributary subject, or feudatory vassel of the British empire in Indostan. The feudal system, which was formerly supposed to be peculiar to our Gothick ancestors, has always prevailed in the east. In every description of that form of government, notwithstanding accidental variations, there are two associations expressed or understood; one for internal security, the other for external defence. The king or nabob, confers protection on the feudatory baron as tributary prince, on condition of an annual revenue in the time of peace, and of military service, partly commutable for money, in the time of war. The feudal incidents in the middle ages in Europe, the fine paid to the superiour on marriage, wardship, relief, &c. correspond to the annual tribute in Asia. Military service in war, and extraordinary aids in the event of extraordinary emergencies, were common to both.—

“When the governour general of Bengal in 1778, made an extraordinary demand on the zemindar of Benares for five lacks of rupees, the British empire, in that part of the world, was surrounded with enemies which threatened its destruction. In 1779 a general confederacy was formed among the great powers of Indos-

tan, for the expulsion of the English from their Asiatick dominions. At this crisis the expectation of a French armament augmented the general calamities of the country. Mr. Hastings is charged by the committee with making his first demand under the false pretence that hostilities had commenced with France. Such an insidious attempt to pervert a meritorious action into a crime, is new even in the history of impeachments. On the 7th of July 1778, Mr. Hastings received private intelligence from an English merchant at Cairo, that war had been declared by Great Britain on the 23d of March, and by France on the 30th of April. Upon this intelligence, considered as authentick, it was determined to attack all the French settlements in India. The information was afterwards found to be premature; but in the latter end of August, a secret despatch was received from England, authorizing and appointing Mr. Hastings to take the measures which he had already adopted in the preceding month. The directors and the board of control have expressed their approbation of this transaction, by liberally rewarding Mr. Baldwin, the merchant, for sending the earliest intelligence he could to Bengal. It was two days after Mr. Hastings information of the French war, that he formed the resolution of exacting the five lacks of rupees from Cheit Sing, and would have made similar exactions from all the dependencies of the company in India, had they been in the same circumstances. The fact is, that the great zemindars of Bengal pay as much to government as their lands can afford: Cheit Sing's collections were above fifty lacks, and his rent not twenty-four.

“The right of calling for extraordinary aids and military service in times of danger being universally established in India, as it was formally in Europe during the feudal times, the subsequent conduct of Mr. Hastings is explained and vindicated. The governor general and council of Bengal having made a demand upon a tributary zemindar for three successive years, and that demand having been resisted by their vassal, they are

justified in his punishment. The necessities of the company, in consequence of the critical situation of their affairs in 1781, calling for a high fine; the ability of the zemindar, who possessed near two crores of rupees in money and jewels, to pay the sum required, his backwardness to comply with the demands of his superiours, his disaffection to the English interest, and desire of revolt, which even then began to appear, and were afterwards conspicuous, fully justify Mr. Hastings in every subsequent step of his conduct. In the whole of his proceedings it is manifest that he had not early formed a design hostile to the zemindar, but was regulated by events which he could neither foresee nor control. When the necessary measures which he had taken for supporting the authority of the company, by punishing a refractory vassal, were thwarted and defeated by the barbarous massacre of the British troops and the rebellion of Cheit Sing, the appeal was made to arms, an unavoidable revolution took place in Benares and the zemindar became the author of his own destruction."

Here follows the concluding passage, which is arranged by the information.

"The decision of the house of commons on this charge against Mr. Hastings, is one of the most singular to be met with in the annals of parliament. The minister, who was followed by the majority, vindicated him in every thing that he had done, and found him blamable only for what he intended to do; justified every step of his conduct, and criminated his proposed intention of converting the crimes of the zemindar to the benefit of the state, by a fine of fifty lacks of rupees. An impeachment of error of judgment with regard to the quantum of a fine, and for an intention that never was executed, and never known to the offending party, characterizes a tribunal of inquisition rather than a court of parliament."

Gentlemen, I am ready to admit that this sentiment might have been expressed in language more reserved and guarded: but you will look to the sentiment itself, rather than to its dress; to the mind of

the writer, and not to the bluntness with which he may happen to express it. It is obviously the language of a warm man, engaged in the honest defence of his friend, and who is brought to what he thinks a just conclusion in argument, which perhaps becomes offensive in proportion to its truth. Truth is undoubtedly no warrant for writing what is reproachful of any private man; for if a member of society lives within the law, then if he offends it is against God alone, and man has nothing to do with him, and if he transgress the laws, the libeller should arraign him before them, instead of presuming to try him himself. But as to writings on general subjects, which are not charged as an infringement on the rights of individuals, but as of a seditious tendency it is far otherwise.

When in the progress either of legislation or of high national justice in parliament, they who are amenable to no law, are supposed to have adopted through mistake or error, a principle, which if drawn into precedent might be dangerous to the public; I shall not admit it to be a libel in the course of a legal and bona fide publication, to state that such a principle had in fact been adopted; for the people of England are not to be kept in the dark touching the proceedings of their own representatives. Let us therefore coolly examine this supposed offence, and see what it amounts to.

First, was not the conduct of the right honourable gentleman, whose name is here mentioned, exactly what it is represented? Will the attorney general, who was present in the house of commons, say that it was not? Did not the minister vindicate Mr. Hastings in what he had done, and was not his consent to that article of the impeachment founded on the intention of levying a fine on the zemindar for the service of the state, beyond the quantum which he, the minister, thought reasonable.

What else is this but an impeachment of error in judgment, in the quantum of a fine.

So much for the first part of the sentence, which regarding Mr. Pitt only, is foreign to our purpose;

and as to the last part of it, which imputes the sentiments of the minister to the majority that followed him with their votes on the question, that appears to me to be giving handsome credit to the majority for having voted from conviction and not from courtesy to the minister. To have supposed otherwise, I dare not say, would have been a more natural libel, but it would certainly have been a greater one. The sum and substance therefore of this paragraph is only this: that an impeachment for an error in judgment, is not consistent with the theory or the practice of the English Government. So say I.

I say without reserve, speaking merely in the abstract, and not meaning to decide upon the merits of Mr. Hastings's cause, that an impeachment for an error in judgment is contrary to the whole spirit of English criminal justice, which though not binding on the house of commons, ought to be a guide to their proceedings. I say that their extraordinary jurisdiction of impeachment, ought never to be assumed to expose error, or to scourge misfortune, but to hold up a terrible example to corruption and wilful abuse of authority by extra legal pains.

If publick men are always punished with due severity, when the source of their misconduct appears to have been selfish, corrupt, and criminal, the publick can never suffer when their errors are treated with gentleness: for no man from such protection to the magistrate can think lightly of the charge of magistracy itself, when he sees, by the language of the saving judgment, that the only title to it is an honest and zealous intention.

Gentlemen, if at this moment, or indeed in any other in the whole course of our history, the people of England were to call upon every man in this impeaching house of commons, who had given his voice on publick questions, or acted in authority civil or military, to answer for the issues of our counsels and our wars, and if honest single intentions for the publick service were refused as answers to impeachments, we should have many relations to mourn for, and many

friends to deplore. For my own part, gentlemen, I feel, I hope for my country, as much as any man that inhabits it : but I would rather see it fall and be buried in its ruins, than lend my voice to wound any minister, or other responsible person, however unfortunate, who had fairly followed the lights of his understanding and the dictates of his conscience for their preservation.

Gentlemen, this is no theory of mine, it is the language of English law, and the protection which it affords to every man in office from the highest to the lowest trusts in government.

In no one instance that can be named, foreign or domestick, did the court of king's bench ever interpose its extraordinary jurisdiction, by information against any magistrate for the widest departure from the rule of his duty, without the plainest and clearest proof of corruption. To every such application, not so supported, the constant answer has been : Go to a grand jury with your complaint. God forbid that a magistrate should suffer from an error in judgment, if his purpose was honestly to discharge his trust. We cannot stop the ordinary course of justice ; but wherever the court has a discretion, such a magistrate is entitled to its protection. I appeal to the noble judge and to every man who hears me, for the truth and universality of this position. And it would be a strange solecism indeed to assert, that in a case where the supreme court of criminal justice in the nation would refuse to interpose an extraordinary though a legal jurisdiction, on the principle that the ordinary execution of the laws should never be exceeded, but for the punishment of malignant guilt, the commons in their judicial capacity, growing out of the same constitution, should reject that principle, and stretch them still further by a jurisdiction still more eccentric. Many impeachments have taken place, because the law could not adequately punish the objects of them ; but who ever heard of one being set on foot because the law upon principle would not punish them ? Many impeachments have been adopted for a higher example

than a prosecution in the ordinary courts, but surely never for a different example. The matter, therefore, in the offensive paragraph, is not only an indisputable truth, but a truth in the propagation of which we are all deeply concerned.

Whether Mr. Hastings, in the instance acted from corruption, or from zeal for his employers, is what I have nothing to do with; it is to be decided in judgment; my duty stops with wishing him, as I do, an honourable deliverance. Whether the minister, or the commons, meant to found this article of the impeachment, on mere error without corruption, is likewise foreign to the purpose. The author could only judge from what was said and done on the occasion. He only sought to guard the principle which is a common interest, and the rights of Mr. Hastings under it, and was therefore justified in publishing, that an impeachment, founded on error in judgment, was to all intents and purposes illegal, unconstitutional, and unjust. Gentlemen, it is now time for us to return again to the work under examination.

The author having discussed the whole of the first article through so many pages, without even the imputation of an incorrect or intemperate expression, except in the concluding passage, the meaning of which I trust I have explained, goes on with the same earnest disposition to the discussion of the second charge respecting the princesses of Oude, which occupies eighteen pages, not one syllable of which the attorney general has read, and on which there is not even a glance at the house of commons, the whole of this answer is indeed so far from being a mere cloak for the introduction of slander, that I aver it to be one of the most masterly pieces of writing I ever read in my life: from thence he goes on to the charge of contracts and salaries, which occupies five pages more, in which there is not a glance at the house of commons, nor a word read by the attorney general. He afterwards defends Mr. Hastings against the charges respecting the opium contracts. Not a glance at the house of commons; not a word by the attor-

ney general. And in short, in this manner he goes on with the others to the end of the book.

Now is it possible for any human being to believe, that a man, having no other intention than to vilify the house of commons (as this information charges), should yet keep his mind thus fixed and settled as the needle to the pole, upon the serious merits of Mr. Hastings' defence without ever straying into matter even questionable, except in the two or three selected parts out of two or three hundred pages. This is a forbearance which could not have existed, if calumny and detraction had been the malignant objects which led him to the inquiry and publication. The whole fallacy therefore arises from holding up to view a few detached passages, and carefully concealing the general tenour of the book.

Having now finished most, if not all of these critical observations, which it has been my duty to make upon this unfair mode of prosecution; it is but a tribute of common justice to the attorney general, (and which my personal regard for him makes it more pleasant to pay,) that none of my commentaries reflect in the most distant manner upon him; nor upon the solicitor for the crown, who sits near me, who is a person of the most correct honour. Far from it. The attorney general having orders to prosecute, in consequence of the address of the house to his majesty, had no choice in the mode; no means at all of keeping the prosecutors before you in countenance, but by the course which has been pursued; but so far has he been from enlisting into the cause those prejudices, which it is not difficult to slide into a business originating from such exalted authority, he has honourably guarded you against them; pressing indeed severely upon my client with the weight of his ability, but not with the glare and trappings of his high office.

Gentlemen, I wish that my strength would enable me to convince you of the author's singleness of intention, and of the merit and ability of his work, by reading the whole that remains of it. But my voice

is already nearly exhausted; I am sorry my client should be a sufferer by my infirmity; one passage, however, is too striking and important to be passed over, the rest I must trust to your private examination. The author having discussed all the charges, article by article, sums them all up with this striking appeal to his readers.

“The authentick statement of facts which has been given, and the arguments which have been employed, are, I think, sufficient to vindicate the character and conduct of Mr. Hastings, even on the maxims of European policy. When he was appointed governor general of Bengal, he was invested with a discretionary power to promote the interests of the India company, and of the British empire in that quarter of the globe. The general instructions sent to him from his constituents were, ‘That in all your deliberations and resolutions, you make the safety and prosperity of Bengal your principal object, and fix your attention on the security of the possessions and revenues of the company.’ His superiour genius sometimes acted in the spirit rather than complied with the letter of the law: but he discharged the trust, and preserved the empire committed to his care, in the same way, and with greater splendour and success than any of his predecessors in office. His departure from India was marked with the lamentations of the natives and the gratitude of his countrymen; and on his return to England, he received the cordial congratulations of that numerous and respectable society, whose interests he had promoted and whose dominions he had protected and extended.”

Gentlemen, if this be a wilfully false account of the instructions given to Mr. Hastings for his government, and of his conduct under them, the author and publisher of this defence deserve the severest punishment, for a mercenary imposition on the publick. But if it be true that he was directed to make the safety and prosperity of Bengal the first object of his attention; and that under his administration it has been safe and prosperous; if it be true that the security

and preservation of our possessions and revenues in Asia was marked out to him as the great leading principle of his government; and that these possessions and revenues, amidst unexampled dangers, have been secured and preserved; then a question may be unaccountably mixed with your consideration, much beyond the consequence of the present prosecution, involving perhaps the merits of the impeachment itself which gave it birth; a question which the commons, as prosecutors of Mr. Hastings, should in common prudence have avoided; unless that, regretting the unwieldly length of their proceedings against him, they wished to afford him the opportunity of this strange anomalous defence. For although I am neither his counsel, nor desire to have any thing to do with his innocence; yet in the collateral defence of my client, I am driven to state matter which may be considered by many as hostile to the impeachment. For if our dependencies have been secured, and their interests promoted, I am driven in the defence of my client to remark, that it is mad and preposterous to bring to the standard of justice and humanity, the exercise of a dominion founded upon violence and terror. It may and must be true, that Mr. Hastings has repeatedly offended against the rights and privileges of Asiatick government, if he was the faithful deputy of a power which could not maintain itself for an hour, without trampling upon both. He may and must have offended against the laws of God and nature, if he was the faithful viceroy of an empire wrested in blood from a people to whom God and nature had given it. He may and must have preserved that unjust dominion over a timorous and abject nation, by a terrifying, overbearing, insulting superiority, if he was the faithful administrator of your government, which, having no root in consent or affection, no foundation in similarity of interests, nor support from any one principle which cements men together in society, could only be upheld by alternate stratagem and force. The unhappy people of India, feeble and effeminate as they are from the softness of their

climate, and subdued and broken as they have been by the knavery and strength of civilization, still occasionally start up in all the vigour and intelligence of insulted nature. To be governed at all they must be governed with a rod of iron; and our empire in the east would over and over again have been lost to Great Britain if civil skill and military prowess had not united their efforts to support an authority which heaven never gave, by means which it never can sanction.

Gentlemen, I think I can observe that you are touched with this way of considering the subject; and I can account for it. I have not been considering it through the cold medium of books, but have been speaking of man and his nature, and of human dominion, from what I have seen of them myself amongst reluctant nations submitting to our authority. I know what they feel, and how such feelings can alone be repressed. I have heard them in my youth from a naked savage, in the indignant character of a prince surrounded by his subjects, addressing the governour of a British colony, holding a bundle of sticks in his hand, as the notes of his unlettered eloquence. "Who is it," said the jealous ruler over the desert encroached upon by the restless foot of English adventure—"Who is it that causes this river to rise in the high mountains and to empty itself into the ocean? Who is it that causes to blow the loud winds of winter, and that can calm them again in the summer? Who is it that rears up the shades of these lofty forests and blasts them with the quick lightning at his pleasure? The same Being who gave to you a country on the other side of the waters, and gave ours to us and by this title we will defend it," said the warrior throwing down his tomahawk upon the ground, and raising the war sound of his nation. These are the feelings of subjugated man all round the globe; and depend upon it, nothing but fear will control where it is in vain to look for affection.

These reflections are the only antidotes to those anathemas of superhuman eloquence which have lately shook these walls that surround us, but which

it unaccountably falls to my province, whether I will or no, a little to stem the torrent of; by reminding you that you have a mighty sway in Asia, which cannot be maintained by the finer sympathies of life, or the practice of its charities and affections. What will they do for you when surrounded by two hundred thousand men with artillery, cavalry, and elephants, calling upon you for their dominions which you have robbed them of? Justice may, no doubt, in such a case forbid the levying of a fine to pay a revolting soldiery; a treaty may stand in the way of increasing a tribute to keep up the very existence of the government; and delicacy for women may forbid all entrance into a zenana for money, whatever may be the necessity for taking it. All these things must ever be occurring. But under the pressure of such constant difficulties, so dangerous to national honour, it might be better perhaps to think of effectually securing it altogether, by recalling our troops and our merchants, and abandoning our oriental empire. Until this is done, neither religion nor philosophy can be pressed very far into the aid of reformation and punishment. If England, from a lust of ambition and dominion will insist on maintaining despotick rule over distant and hostile nations, beyond all comparison more numerous and extended than herself, and gives commission to her viceroys to govern them with no other instructions than to preserve them, and to secure permanently their revenues; with what colour of consistency or reason can she place herself in the moral chair, and affect to be shocked at the execution of her own orders; adverting to the exact measure of wickedness and injustice necessary to their execution, and complaining only of the excess as the immorality; considering her authority as a dispensation for breaking the commands of God, and the breach of them as only punishable when contrary to the ordinances of man.

Gentlemen, such a proceeding begets serious reflections. It would be better perhaps for the masters and the servants of all such governments, to join in

supplication, that the great Author of violated humanity may not confound them together in one common judgment,

Gentlemen, I find, as I said before, I have not sufficient strength to go on with the remaining parts of the book. I hope, however, that notwithstanding my omissions you are now completely satisfied, that whatever errors or misconceptions may have misled the writer of these pages, the justification of a person whom he believed to be innocent, and whose accusers had appealed to the publick, was the single object of his contemplation. If I have succeeded in that object every purpose which I had in addressing you has been answered.

It only now remains to remind you that another consideration has been strongly pressed upon you, and, no doubt, will be insisted on in reply. You will be told, that the matters which I have been justifying as legal, and even meritorious, have therefore not been made the subject of complaint; and that whatever intrinsick merit parts of the book may be supposed or even admitted to possess, such merit can afford no justification to the selected passages, of some which even with the context, carry the meaning charged by the information, and which are indecent animadversions on authority.

Gentlemen, to this I would answer (still protesting as I do against the application of any one of the innuendos,) that if you are firmly persuaded of the singleness and purity of the author's intentions, you are not bound to subject him to infamy, because in the zealous career of a just and animated composition, he happens to have tripped with his pen into an intemperate expression in one or two instances of a long work. If this severe duty were binding on your consciences the liberty of the press would be an empty sound, and no man could venture to write on any subject however pure his purpose, without an attorney at one elbow, and a council at the other.

From minds thus subdued by the terrors of punishment, there could issue no works of genius to

expand the empire of human reason, nor any masterly compositions on the general nature of government, by the help of which, the great commonwealths of mankind have founded their establishments; much less any of those useful applications of them to critical conjunctures, by which from time to time, our own constitution, by the exertion of patriot citizens, has been brought back to its standard.

Under such terrors, all the great lights of science and civilization must be extinguished: for men cannot communicate their free thoughts to one another with a lash held over their heads.

It is the nature of every thing that is great and useful, both in the animate and inanimate world, to be wild and irregular; and we must be contented to take them with their alloys which belong to them or live without them. Genius breaks from the fetters of criticism, but its wanderings are sanctioned by its majesty and wisdom, when it advances in its path. Subject it to the critick; and you tame it into dulness. Mighty rivers break down their banks in the winter, sweeping away to death the flocks which are fattened on the soil that they fertilize in the summer. The few may be saved by embankments from drowning, but the flock must perish for hunger. Tempests occasionally shake our dwellings, and dissipate our commerce; but they scourge before them the lazy elements, which without them would stagnate into pestilence.

In like manner, liberty herself, the last and best gift of God to his creatures, must be taken just as she is. You may pare her down into bashful regularity, and shape her into a perfect model of severe scrupulous law, but she will be liberty no longer; and you must be content to die under the lash of this inexorable justice which you have exchanged for the banner of freedom.

If it be asked where the line to this indulgence and impunity is to be drawn; the answer is easy. The liberty of the press on general subjects comprehends and implies as much strict observance of positive law

as is consistent with perfect purity of intention, and equal and useful society; and what that latitude is, cannot be promulgated in the abstract, but must be judged of in the particular instance, and consequently upon this occasion must be judged of by you, without forming any possible precedent for any other case; and where can the judgment be possibly so safe as with the members of that society, which alone can suffer if the writing is calculated to do mischief to the publick.

You must, therefore, try the book by that criterion, and say whether the publication was premature and offensive, or, in other words, whether the publisher was bound to have suppressed it until the publick ear was anticipated and abused, and every avenue to the human heart or understanding secured and blocked up.

I see around me those, by whom, by and by, Mr. Hastings will be most ably and eloquently defended;* but I am sorry to remind my friends, that but for the right of suspending the publick judgment concerning him till their season of exertion comes round, the tongues of angels would be insufficient for the task.

Gentlemen, I hope I have now performed my duty to my client; I sincerely hope that I have: for, certainly, if ever there was a man pulled the other way by his interests and affections; if ever there was a man who should have trembled at the situation in which I have been placed on this occasion; it is myself, who not only love, honour, and respect, but whose future hopes and preferments are linked from free choice with those who, from the mistakes of the author, are treated with great severity and injustice. These are strong retardments; but I have been urged on to activity by considerations, which can never be inconsistent with honourable attachments, either in the political or social world; the love of justice and of liberty and a zeal for the constitution of my country, which is the inheritance of our posterity, of the publick and of the world.

* Mr. Law, Mr. Plumer, and Mr. Dallas.

These are the motives which have animated me in defence of this person, who was an entire stranger to me; whose shop I never go to; and the author of whose publication, as well as Mr. Hastings who is the object of it, I never spoke to in my life.

One word more, gentlemen, and I have done. Every human tribunal ought to take care to administer justice, as we look hereafter to have justice administered to ourselves. Upon the principle which the attorney general prays sentence upon my client.—God have mercy upon us. Instead of standing before him in judgment with the hopes and consolations of Christians, we must call upon the mountains to cover us; for which of us can present for omniscient examination, a pure, unspotted, and faultless course. But I humbly expect that the benevolent author of our being will judge us as I have been pointing out for your example. Holding up the great volume of our lives in his hands, and regarding the general scope of them; if he discovers benevolence, charity and good will to man beating in the heart, where he alone can look; if he finds that our conduct, though often forced out of the path by our infirmities, has been in general well directed; his all searching eye will assuredly never pursue us into those little corners of our lives, much less will his justice select them for punishment, without the general context of our existence; by which faults may be sometimes found to have grown out of virtues, and very many of our heaviest offences to have been grafted by human imperfection, upon the best and kindest of our affections. No, gentlemen, believe me, this is not the course of divine justice, or there is no truth in the Gospels of Heaven. If the general tenour of a man's conduct be such as I have represented it, he may walk through the shadow of death with all his faults about him, with as much cheerfulness as in the common paths of life; because he knows, that instead of a stern accuser to expose before the author of his nature those frail passages, which like the scored matter in the book before you chequers the volume of the brightest and best spent life,

his mercy will obscure them from the eye of his purity, and our repentance blot them out for ever.

All this would, I admit, be perfectly foreign and irrelevant, if you were sitting here in a case of property between man and man, where a strict rule of law must operate, or there would be an end in that case of civil life, and society.

It would be equally foreign, and still more irrelevant, if applied to those shameful attacks upon private reputation which are the bane and disgrace of the press; by which whole families have been rendered unhappy during life, by aspersions, cruel, scandalous, and unjust. Let **SUCH LIBELLERS** remember, that no one of my principles of defence can at any time or upon any occasion ever apply to shield **THEM** from punishment; because such conduct is not only an infringement of the rights of men, as they are defined by strict law, but is absolutely incompatible with honour, honesty, or mistaken good intention.

On such men let the attorney general bring forth all the artillery of his office, and the thanks and blessings of the whole publick will follow him. But this is a totally different case. Whatever private calumny may mark this work, it has not been made the subject of complaint, and we have therefore nothing to do with that, nor any right to consider it. We are trying whether the publick could have been considered as offended and endangered, if Mr. Hastings himself, in whose place the author and publisher have a right to put themselves, had, under all the circumstances which have been considered, composed, and published the volume under examination. That question cannot in common sense be any thing resembling *a question of LAW*, but is a pure question of *fact*, to be decided on the principles which I have humbly recommended. I therefore ask of the court, that the book itself may now be delivered to you. Read it with attention, and as you find it pronounce your verdict.

SPEECH, OF MR. CURRAN,

ON THE TRIAL OF ARCHIBALD HAMILTON ROWAN, ESQUIRE,
FOR THE PUBLICATION OF A LIBEL.

AT the dawn of that spirit of faction, and disloyalty in Ireland, which soon afterwards burst forth in open rebellion, and afflicted the country with the train of horrible consequences incident to civil commotions, ARCHIBALD HAMILTON ROWAN, a gentleman, uniting to the advantages of birth, superiour talents, elegant accomplishments, and untarnished reputation was seduced by the warmth of a mistaken zeal arising partly out of the temper of the times, and inflamed by the generous enthusiasm of his nature into those schemes which, under the immediate pretence of redressing certain grievances, had, as events proved, their ulterior views fixed on a dissolution of the existing connexion with Great Britain, and the erection of an *independent republican government*.

At a special meeting convened on the 16th December, 1792, of the United Irishmen, a society, professing to have for its objects the redress of these grievances by procuring the abolition of all legal tests and proscriptions, the entire emancipation of the Catholics, and a radical reform in parliament, the subsequent paper was distributed by Mr. Rowan, exhorting the Irish volunteers in an animated appeal to their patriotism and prejudices to *rouze to arms, &c.*

“YOU first took up arms to protect your country from foreign enemies and from domestick disturbance; for the same purposes it now becomes necessary that you should resume them; a proclamation has been issued in England for embodying the militia, and a proclamation has been issued by the lord lieutenant and council in Ireland, for repressing all seditious associations; in consequence of both these proclamations it is reasonable to apprehend danger from abroad and danger at home, for whence but from apprehended danger are these menacing preparations for war, drawn through the streets of this capital or whence if not to create that internal commotion which was not found, to shake that credit which was not affected, to blast that volunteer honour which was hitherto inviolate, are those terrible suggestions and rumours and whispers that meet us at every corner, and agitate at least our old men, our women, and children; whatever be the motive, or from whatever quarter it arises, alarm has arisen; and you, volunteers of Ireland, are therefore summoned to arms at the instance of government as well as by the responsibility attached to your character, and the permanent obligations of your institution. We will not at this day condescend to quote authorities for the right of having and of using arms; but we will cry aloud, even amidst the storm raised by the witchcraft of a proclamation, that to your formation was owing the peace and protection of this island, to your relaxation has been owing its relapse into impotence and insignificance, to your renovation must be owing its future freedom and its present tranquillity. You are therefore summoned to arms, in order to preserve your country in that guarded quiet which may secure it from external hostility, and to maintain that internal regimen throughout the land, which superceding a notorious police or a suspected militia, may preserve the blessings of peace by a vigilant preparation for war.—Citizen soldiers, to arms! take up the shield of freedom and the pledges of peace—peace, the motive and end of your virtuous institution—war, an occasional duty, ought never to be made an occupation. Every man should become a soldier in defence of his rights: no man ought to continue a soldier for offending the rights of others. The sacrifice of life in the service of our country is a duty much too honourable to be intrusted to mercenaries, and at this time, when your country has, by public authority, been declared in danger, we conjure you by your interest, your duty, and your glory, to stand to your arms, and in spite of a police, in spite of a fencible militia, in virtue of two proclamations, to maintain good order in your vicinage, and tranquillity in Ireland. It is only by the military array of men in whom they confide, whom they have been accustomed to revere as the guardians of domestick peace, the protectors of their liberties and lives, that the present agitation of the people can be stilled, that tumult and licentiousness can be repressed, obedience secured to existing law, and a calm confidence dif-

fused through the publick mind in the speedy resurrection of a free constitution, of liberty and equality, words which we use for an opportunity of repelling calumny, and of saying, that by liberty we never understood unlimited freedom, nor by equality the leveling of property or the destruction of subordination; this is a calumny invented by that faction, or that gang, which misrepresents the king to the people, and the people to the king, traduces one half of the nation to cajole the other, and by keeping up distrust and division, wishes to continue the proud arbitrators of the fortune and fate of Ireland. Liberty is the exercise of all our rights, natural and political, secured to us and our posterity by a real representation of the people; and equality is the extension of the constituent to the fullest dimensions of the constitution, of the elective franchise to the whole body of the people, to the end that government, which is collective power, may be guided by collective will, and that legislation may originate from publick reason, keep pace with publick improvement, and terminate in publick happiness. If our constitution be imperfect, nothing but a reform in the representation will rectify its abuses: if it be perfect, nothing but the same reform will perpetuate its blessings. We now address you as citizens, for to be citizens you became soldiers, nor can we help wishing that all soldiers partaking the passions and interest of the people would remember, that they were once citizens, that seduction made them soldiers, but nature made them men. We address you without any authority save that of reason, and if we obtain the coincidence of publick opinion, it is neither by force nor stratagem; for we have no power to terrify, no artifice to cajole, no fund to seduce. Here we sit without mace or beadle, neither a mystery nor a craft, nor a corporation. In four words lies all our power—universal emancipation and representative legislature—yet we are confident that on the pivot of this principle, a convention, still less a society, still less a single man, will be able first to move and then to raise the world. We therefore wish for Catholick emancipation without any modification, but still we consider this enfranchisement as merely the portal to the temple of freedom. Wide as this entrance is, wide enough to admit three millions, it is narrow when compared to the capacity and comprehension of our beloved principle, which takes in every individual of the Irish nation, casts an equal eye over the whole island, embraces all that think, and feels for all that suffer. The Catholick cause is subordinate to our cause, and included in it; for, as united Irishmen, we adhere to no sect, but to society, to no cause, but Christianity—to no party, but the whole people. In the sincerity of our souls do we desire Catholick emancipation: but were it obtained to morrow, to morrow would we go on as we do to day, in the pursuit of that reform, which would still be wanting to ratify their liberties as well as our own.

For both these purposes it appears necessary, that provincial conventions should assemble preparatory to the convention of the Protestant people. The delegates of the Catholick body are not justified in communicating with individuals or even bodies of inferiour authority, and therefore an assembly of similar nature and organization is necessary to establish an intercourse of sentiments, a uniformity of conduct, a united cause, and a united nation; if a convention on the one part does not soon follow, and is not soon connected with that on the other, the common cause will split into partial interests, the people will relapse into inattention and inertness, the union of affection and exertion will dissolve, and too probably some local insurrections, instigated by the malignity of our common enemy, may commit the character and risk the tranquillity of the island, which can be obviated only by an assembly arising from, assimilated with the people, and whose spirit may be, as it were, knit with the soul of the nation. Unless the sense of the Protestant people be on their part as fairly collected and as judiciously directed, unless individual exertion consolidates into collective strength, unless the particles unite into one mass, we may perhaps serve some person or some party for a little, but the publick not at all. The nation is neither insolent, nor rebellious, nor seditious. While it knows its rights, it is unwilling to manifest its powers. It would rather supplicate administration to anticipate revolution, by well-timed reform, and to save their country in mercy to themselves. The 15th of February approaches, a day ever memorable in the annals of this country as the birth day of *new* Ireland. Let parochial meetings be held as soon as possible, let each parish return delegates, let the sense of Ulster be again declared from Dungannon on a day auspicious to union, peace and freedom, and the spirit of the North will again become the spirit of the nation. The civil assembly ought to claim the attendance of the military associations, and we have addressed you, citizen soldiers, on this subject from the belief, that your body uniting conviction with zeal, and zeal with activity, may have much influence over your countrymen, your relations and friends. We offer only a general outline to the publick, and meaning to address Ireland, presume not at present to fill up the plan or pre-occupy the mode of its execution. We have thought it our duty to speak.—Answer us by actions. You have taken time for consideration. Fourteen long years have elapsed since the rise of our associations; and, in 1782, did you imagine that in 1792 this nation would still remain unrepresented? How many nations in this interval have gotten the start of Ireland? How many of your countrymen have sunk into the grave?"

This address being deemed libellous, Mr. Rowan was prosecuted for it, and convicted.

Curran, who conducted his defence, roused by the importance of the trial and the strong impulse of personal friendship, seems to have exerted the full extent of his magick powers, and if Hume's maxim be true, that "a common audience is the best judge of oratory," the loud and reiterated acclamations which he received during its delivery, entitles his speech to be placed conspicuously among the instances of impressive and popular eloquence.

SPEECH, &c.

GENTLEMEN OF THE JURY,

WHEN I consider the period at which this prosecution is brought forward; when I behold the *extraordinary safeguard** of armed soldiers resorted to, no doubt for the preservation of peace and order; when I catch, as I cannot but do, the throb of public anxiety which beats from one end to the other of this hall; when I reflect on what may be the fate of a man of the most beloved personal character, of one of the most respected families of our country; himself the only individual of that family, I may almost say of that country, who can look to that possible fate with unconcern? Feeling as I do all these impressions, it is in the honest simplicity of my heart I speak, when I say that I never rose in a court of justice with so much embarrassment, as upon this occasion.

If, gentleman, I could entertain a hope of finding refuge for the disconcertion of my mind, in the perfect composure of yours; if I could suppose that those awful vicissitudes of human events, which have been stated or alluded to, could leave your judgments undisturbed and your hearts at ease, I know I should form a most erroneous opinion of your character. I entertain no such chimerical hopes; I form no such unworthy opinions; I expect not that your hearts can

* Alluding to a guard of soldiers who were brought into court.

be more at ease than my own; I have no right to expect it; but I have a right to call upon you in the name of your country, in the name of the living God, of whose eternal justice you are now administering that portion which dwells with us on this side of the grave, to discharge your breasts as far as you are able of every bias of prejudice or passion; that if my client is guilty of the offence charged upon him, you may give tranquillity to the publick by a firm verdict of conviction; or if he is innocent, by as firm a verdict of acquittal; and that you will do this in defiance of the paltry artifices and senseless clamours that have been resorted to in order to bring him to his trial with anticipated conviction. And, gentlemen, I feel an additional necessity of thus conjuring you to be upon your guard, from the able and imposing statement which you have just heard on the part of the prosecution. I know well the virtues and the talents of the excellent person who conducts that prosecution; I know how much he would disdain to impose upon you by the trappings of office; but I also know how easily we mistake the lodgement which character and eloquence can make upon our feelings, for those impressions that reason and fact and proof only ought to work upon our understandings.

Perhaps, gentlemen, I shall act not unwisely in waving any further observation of this sort, and giving your minds an opportunity of growing cool and resuming themselves, by coming to a calm and uncoloured statement of mere facts, premising only to you, that I have it in the strictest injunction from my client, to defend him upon facts and evidence only, and to avail myself of no technical artifice or subtilty that could withdraw his cause from the test of that inquiry, which it is your province to exercise, and to which only he wishes to be indebted for an acquittal.

In the month of December 1792, Mr. Rowan was arrested on an information, charging him with the offence for which he is now on his trial. He was

taken before an honourable personage now on that bench, and admitted to bail.

He remained a considerable time in this city, soliciting the threatened prosecution, and offering himself to a fair trial by a jury of his country : but it was not then thought fit to yield to that solicitation ; nor has it now been thought proper to prosecute him in the ordinary way, by sending up a bill of indictment to a grand jury. I do not mean by this to say that informations *ex officio* are always oppressive or unjust : but I cannot but observe to you, that when a petty jury is called upon to try a charge not previously found by the grand inquest, and supported by the naked assertion only of the king's prosecutor, that the accusation labours under a weakness of probability which it is difficult to assist. If the charge had no cause of dreading the light ; if it was likely to find the sanction of a grand jury, it is not easy to account why it deserted the more usual, the more popular, and the more constitutional mode, and preferred to come forward in the ungracious form of *ex officio* information.

If such bill had been sent up and found, Mr. Rowan would have been tried at the next commission : but a speedy trial was not the wish of his prosecutors. An information was filed, and when he expected to be tried upon it, an error, it seems, was discovered in the record. Mr. Rowan offered to wave it, or consent to any amendment desired. No. That proposal could not be accepted. A trial must have followed. That information, therefore, was withdrawn, and a new one filed : that is, in fact, a third prosecution was instituted upon the same charge. This last was filed on the eighth day of last July. Gentlemen, these facts cannot fail of a due impression upon you. You will find a material part of your inquiry must be, whether Mr. Rowan is pursued as a criminal or hunted down as a victim. It is not, therefore, by insinuation or circuitry, but it is boldly and directly that I assert, that oppression has been intended and practised upon him ; and by those facts which I have stated I am warranted in the assertion.

His demand, his entreaty to be tried was refused; and why? A hue and cry was to be raised against him; the sword was to be suspended over his head; some time was necessary for the publick mind to become heated by the circulation of artful clamours of anarchy and rebellion; those same clamours, which with more probability, and not more success, had been circulated before through England and Scotland. In this country the causes and the swiftness of their progress were as obvious, as their folly has since become to every man of the smallest observation. I have been stopped myself, with,—“Good God, sir, have you heard the news?—No sir, what?—Why one French emissary was seen travelling through Connaught in a post chaise, and scattering from the windows as he passed, little doses of political poison, made up in square bits of paper—another was actually surprised in the fact of seducing our good people from their allegiance, by discourses upon the indivisibility of French robbery and massacre, which he preached in the French language to a congregation of Irish peasants!”

Such are the bugbears and spectres to be raised to warrant the sacrifice of whatever little publick spirit may remain amongst us: but time has also detected the imposture of these Cock-lane apparitions, and you cannot now, with your eyes open, give a verdict without asking your consciences this question; Is this a fair and honest precaution?—Is it brought forward with the single view of vindicating publick justice, and promoting publick good? And here let me remind you, that you are not convened to try the guilt of a libel, affecting the personal character of any private man. I know no case in which a jury ought to be more severe than when personal calumny is conveyed through a vehicle, which ought to be consecrated to publick information; neither, on the other hand, can I conceive any case in which the firmness and the caution of a jury should be more exerted, than when a subject is prosecuted for a libel on the state. The peculiarity of the British constitution (to which

in its fullest extent we have an undoubted right, however distant we may be from the actual enjoyment) and in which it surpasses every known government in Europe, is this; that its only professed object is the general good, and its only foundation the general will. Hence the people have a right, acknowledged from time immemorial, fortified by a pile of statutes, and authenticated by a revolution that speaks louder than them all, to see whether abuses have been committed, and whether their properties and their liberties have been attended to as they ought to be. This is a kind of subject which I feel myself overawed when I approach. There are certain fundamental principles which nothing but necessity should expose to a publick examination. They are pillars, the depth of whose foundation you cannot explore without endangering their strength: but let it be recollected, that the discussion of such topicks should not be condemned in me, nor visited upon my client. The blame, if any there be, should rest only with those who have forced them into discussion. I say, therefore, it is the right of the people to keep an eternal watch upon the conduct of their rulers; and in order to that, the freedom of the press has been cherished by the law of England. In private defamation, let it never be tolerated; in wicked and wanton aspersion upon a good and honest administration, let it never be supported; not that a good government can be exposed to danger by groundless accusation, but because a bad government is sure to find in the detected falsehood of a licentious press, a security and a credit which it could never otherwise obtain.

————— I have said, that a good government cannot be endangered. I say so again: for whether it be good or bad, can never depend upon assertion; the question is decided by simple inspection. To try the tree look at its fruit. To judge of the government look at the people. What is the fruit of good government?—"The virtue and happiness of the people." Do four millions of people in this country gather those fruits from that government, to whose injured

purity, to whose spotless virtue and violated honour, this seditious and atrocious libeller is to be immolated upon the altar of the constitution? To you gentlemen of that jury, who are bound by the most sacred obligation to your country and your God, to speak nothing but the truth, I put the question: Do they gather these fruits, are they orderly, industrious, religious and contented? Do you find them free from bigotry and ignorance, those inseparable concomitants of systematick oppression? or to try them by a test as unerring as any of the former: Are they united? The period has now elapsed in which considerations of this extent would have been deemed improper to a jury. Happily for these countries, the legislature of each has lately changed, or, perhaps to speak more properly, revived and restored the law respecting trials of this kind.* For the space of thirty or forty years a usage had prevailed in Westminster Hall, by which the judges assumed to themselves the decision of the question, whether libel or not; but the learned counsel for the prosecution are now obliged to admit, that this is a question for the jury only to decide. You will naturally listen with respect to the opinion of the court, but you will receive it as matter of advice, not as matter of law; and you will give it credit, not from any adventitious circumstances of authority, but merely so far as it meets the concurrence of your own understandings.

Give me leave now to state to you the charge, as it stands upon the record. It is, that Mr. Rowan "being a person of wicked and turbulent disposition, and maliciously designing and intending to excite and diffuse among the subjects of this realm of Ireland, discontents, jealousies and suspicions of our lord the king and his government, and disaffection and disloyalty to the person and government of our said lord the king; and to raise very dangerous seditions and tumults within this kingdom of Ireland; and to draw the government of this kingdom into great scandal, infamy and disgrace; and to incite the subjects of

* Alluding to Mr. Fox's libel bill.

our said lord the king to attempt, by force and violence, and with arms, to make alterations in the government, state, and constitution of this kingdom; and to incite his majesty's said subjects to tumult and anarchy; and to overturn the established constitution of this kingdom; and to overawe and intimidate the legislature of this kingdom by armed force," did "maliciously and seditiously" publish the paper in question.

Gentlemen, without any observation of mine, you must see that this information contains a direct charge upon Mr. Rowan; namely, that he did, with intents set forth in the information, publish this paper, so that here you have in fact two or three questions for your decision. First, the matter of fact of the publication; namely, did Mr. Rowan publish that paper? If Mr. Rowan did not in fact publish that paper, you have no longer any question on which to employ your minds. If you think that he was in fact the publisher, then, and not till then, arises the great and important subject to which your judgments must be directed. And that comes shortly and simply to this. Is the paper a libel? and did he publish it with the intent charged in the information? But whatever you may think of the abstract question, whether the paper be libellous or not, and of which paper it has not even been insinuated that he is the author, these can be no ground for a verdict against him, unless you also are persuaded that what he did was done with a criminal design. I wish, gentleman, to simplify and not to perplex. I therefore say again, if these three circumstances conspire: that he published it, that it was a libel, and that it was published with the purposes alleged in the information, you ought unquestionably to find him guilty. If, on the other hand, you do not find that all these circumstances concurred; if you cannot upon your oaths say that he published it; if it be not in your opinion a libel; and if he did not publish it with the intention alleged; I say upon the failure of any one of these points, my client is entitled, in justice, and upon your oaths, to a verdict of acquittal.

Gentlemen, Mr. Attorney General has thought proper to direct your attention to the state and circumstances of publick affairs at the time of this transaction. Let me also make a few retrospective observations on a period, at which he has but slightly glanced. I speak of the events which took place before the close of the American war. You know, gentlemen, that France had espoused the cause of America, and we became thereby engaged in war with that nation. *Heu nescia mens hominum futuri!* Little did that ill-fated monarch know that he was forming the first causes of those disastrous events, that were to end in the subversion of his throne, in the slaughter of his family, and the deluging of his country with the blood of his people. You cannot but remember that at a time, when we had scarcely a regular soldier for our defence; when the old and young were alarmed and terrified with apprehensions of descent upon our coasts; that Providence seemed to have worked a sort of miracle in our favour. You saw a band of armed men come forth at the great call of nature, of honour, and their country. You saw men of the greatest wealth and rank; you saw every class of the community give up its members, and send them armed into the field, to protect the publick and private tranquillity of Ireland. It is impossible for any man to turn back to that period, without reviving those sentiments of tenderness and gratitude, which then beat in the publick bosom; to recollect amidst what applause, what tears, what prayers, what benedictions, they walked forth amongst spectators, agitated by the mingled sensations of terrour and reliance, of danger and protection; imploring the blessings of Heaven upon their heads, and its conquest upon their swords. That illustrious, and adored, and *abused* body of men, stood forward and assumed the title, which, I trust, the ingratitude of their country will never blot from its history, "THE VOLUNTEERS OF IRELAND."

Give me leave now, with great respect, to put one question to you. Do you think the assembling of

that glorious band of patriots was an insurrection? Do you think the invitation to that assembling would have been sedition? They came under no commission but the call of their country; unauthorized and unsanctioned except by publick emergency and publick danger. I ask, was that meeting insurrection or not? I put another question: If any man then had published a call on that body, and stated that war was declared against the state; that the regular troops were withdrawn; that our coasts were hovered round by the ships of the enemy; that the moment was approaching, when the unprotected feebleness of age and sex; when the sanctity of habitation would be disregarded and prophaned by the brutal ferocity of a rude invader; if any man had then said to them "leave your industry for a while, that you may return to it again, and come forth in arms for the publick defence." I put this question boldly to you, gentlemen? It is not the case of the volunteers of that day. It is the case of my client, at this hour, which I put to you. Would that call have been then pronounced in a court of justice, or by a jury on their oaths, a criminal and seditious invitation to insurrection? If it would not have been so then, upon what principle can it be so now? What is the force and perfection of the law? It is the permanency of the law; it is, that whenever the fact is the same, the law is also the same; it is, that the law remains a written, monumented, and recorded letter, to pronounce the same decision, upon the same facts, whenever they shall arise. I will not affect to conceal it; you know there has been an artful, ungrateful, and blasphemous clamour raised against these illustrious characters, the saviours of the kingdom of Ireland. Having mentioned this, let me read a few words of the paper alleged to be criminal. "You first took up arms to protect your country from foreign enemies, and from domestick disturbance. For the same purposes, it now becomes necessary that you should resume them,

I should be the last in the world to impute any want of candour to the right honourable gentleman, who has stated the case on behalf of the prosecution ; but he has certainly fallen into a mistake, which, if not explained, might be highly injurious to my client. He supposed that this publication was not addressed to the old volunteers, but to new combinations of them, formed upon new principles, and actuated by different motives. You have the words to which this construction is imputed upon the record. The meaning of his mind can be collected only from those words which he has made use of to convey it.—The guilt imputable to him can only be inferred from the meaning ascribable to those words. Let his meaning then be fairly collected by resorting to them. Is there a foundation to suppose that this address was directed to any such body of men, as has been called a *banditti*, with what justice it is unnecessary to inquire, and not to the old volunteers. As to the sneer at the words *citizen soldiers*, I should feel that I was treating a very respected friend with an insidious and unmerited unkindness, if I affected to expose it by any gravity of refutation. I may, however, be permitted to observe, that those who are supposed to have disgraced this expression by adopting it, have taken it from the idea of the British constitution, “That no man in becoming a soldier ceases to be a citizen!” Would to God, all enemies as they are, that that unfortunate people had borrowed more from that sacred source of liberty and virtue ; and would to God, for the sake of humanity, that they had preserved even the little they did borrow. If even there could be an objection to that appellation, it must have been strongest when it was first assumed. To that period the writer manifestly alludes. He addresses “those who first took up arms :” you first took up arms to protect your country from foreign enemies and from domestick disturbance. For the same purposes it is now necessary that you should resume them. Is this applicable to those who had never taken up arms before?—“A proclamation,” says this paper, “has been issued in England for embodying

the militia, and a proclamation has been issued by the lord lieutenant and council in Ireland, for repressing all seditious associations. In consequence of both these proclamations, it is reasonable to apprehend danger from abroad, and danger at home." God help us, from the situation of Europe at that time, we were threatened with too probable danger from abroad, and I am afraid it was not without foundation we were told of our having something to dread at home. I find much abuse has been lavished on the disrespect with which the proclamation is treated, in that part of the paper alleged to be a libel. To that my answer for my client is short. I do conceive it competent to a British subject, if he thinks that a proclamation has issued for the purpose of raising false terrors, I hold it to be not only the privilege but the duty of a citizen to set his countrymen right, with respect to such misrepresented danger; and until a proclamation, in this country, shall have the force of law, the reason and grounds of it are surely at least questionable by the people. Nay, I will go farther; if an actual law had passed receiving the sanction of the three estates, if it be exceptionable in any matter, it is warrantable to any man in the community to state, in a becoming manner, his ideas upon it. And I should be at a loss to know, if the positive laws of Great Britain are thus questionable, upon what ground the proclamation of an Irish government should not be open to the animadversion of an Irish subject.

Whatever be the motive, or from whatever quarter it arises, says this paper, "alarm has arisen." Gentlemen, do you not know that to be the fact? It has been stated by the attorney general, and most truly, that the most gloomy apprehensions were entertained by the whole country. "You volunteers of Ireland, are therefore summoned to arms at the instance of government, as well as by the responsibility attached to your character, and the permanent obligations of your institution."—I am free to confess if any man assuming the liberty of a British subject, to question public topicks, should under the mask of that privilege,

publish a proclamation inviting the profligate and seditious, those in want and those in despair, to rise up in arms to overawe the legislature, to rob us of whatever portion of the blessings of a free government we possess; I know of no offence involving greater enormity. But that, gentlemen, is the question you are to try. If my client acted with an honest mind and fair intention, and having, as he believed, the authority of government to support him in the idea that danger was to be apprehended, did apply to that body of so known and so revered a character, calling upon them by their former honour, the principle of their glorious institution, and the great stake they possessed in their country—If he interposed not upon a fictitious pretext, but a real belief of actual and imminent danger, and that their arming at that critical moment was necessary to their country; his intention was not only innocent, but highly meritorious. It is a question, gentlemen, upon which you only can decide; it is for you to say, whether it was criminal in the defendant to be so misled, and whether he is to fall a sacrifice to the prosecution of that government by which he was so deceived. I say again, gentlemen, you can look only to his own words as the interpreter of his meaning, and to the state and circumstances of his country, as he was made to believe them, as the clue to his intention. The case then, gentlemen, is shortly and simply this; a man of the first family and fortune, and character and property among you, reads a proclamation stating the country to be in danger from abroad and at home, and thus alarmed—thus upon authority of the prosecutor, alarmed, applies to that august body, before whose awful presence sedition must vanish, and insurrection disappear.—You must surrender, I hesitate not to say it, your oaths to unfounded assertion, if you can submit to say, that such an act of such a man, so warranted, is a wicked and seditious libel.—If he was a dupe, let me ask you, who was the impostor? I blush and I shrink with shame and detestation from that meanness of dupery, and servile com-

plaisance, which could make that dupe a victim to the accusation of that impostor.

You perceive, gentlemen, that I am going into the merits of this publication, before I apply myself to the question which is first in order of time, namely, whether the publication, in point of fact, is to be ascribed to Mr. Rowan or not. I have been unintentionally led into this violation of order. I should effect no purpose of either brevity or clearness, by returning to the more methodical course of observation. I have been naturally drawn from it by the superiour importance of the topick I am upon, namely, the merit of the publication in question.

This publication, if ascribable at all to Mr. Rowan, contains four distinct subjects. The first the invitation to the volunteers to arm. Upon that I have already observed: but those that remain are surely of much importance, and no doubt are prosecuted as equally criminal. The paper next states the necessity of a reform in parliament; it states, thirdly, the necessity of an emancipation of the Catholick inhabitants of Ireland; and as necessary to the achievement of all these objects, does, fourthly, state the necessity of a general delegated convention of the people.

It has been alleged that Mr. Rowan intended by this publication to excite the subjects of this country to effect an alteration in the form of your constitution. And here, gentlemen, perhaps you may not be unwilling to follow a little farther than Mr. Attorney General has done, the idea of a late prosecution in Great Britain upon the subject of a publick libel. It is with peculiar fondness I look to that country for solid principles of constitutional liberty and judicial example. You have been pressed in no small degree with the manner in which this publication marks the different orders of our constitution, and comments upon them. Let me show you what boldness of animadversion on such topicks is thought justifiable in the British nation, and by a British jury. I have in my hand the report of the trial of the printers of the Morning Chronicle, for a supposed libel against the state, and of their

acquittal: let me read to you some passages from that publication, which a jury of Englishmen were in vain called upon to brand with the name of libel.

“ Claiming it as our indefeasible right to associate together, in a peaceable and friendly manner, for the communication of thoughts; the formation of opinions, and to promote the general happiness, we think it unnecessary to offer any apology for inviting you to join us in this manly and benevolent pursuit. The necessity of the inhabitants of every community endeavouring to procure a true knowledge of their rights, their duties, and their interests, will not be denied; except by those who are the slaves of prejudice, or interested in the continuation of abuses. As men who wish to aspire to the title of freemen, we totally deny the wisdom and the humanity of the advice, to approach the defects of government with “ pious awe and trembling solicitude.” What better doctrine could the Pope or the tyrants of Europe desire? We think, therefore, that the cause of truth and justice can never be hurt by temperate and honest discussions; and that cause which will not bear such a scrutiny, must be systematically or practically bad. We are sensible that those who are not friends to the general good, have attempted to inflame the publick mind with the cry of “ Danger,” whenever men have associated for discussing the principles of government; and we have little doubt but such conduct will be pursued in this place. We would therefore caution every honest man, who has really the welfare of the nation at heart, to avoid being led away by the prostituted clamours of those who live on the sources of corruption. We pity the fears of the timorous; and we are totally unconcerned respecting the false alarms of the vernal.”——

“ We view with concern the frequency of wars.— We are persuaded that the interests of the poor can never be promoted by accession of territory, when bought at the expense of their labour and blood; and we must say, in the language of a celebrated author “ We, who are only the people, but who pay for wars with our substance and our blood, will not cease to

tell kings," or governments, "that to them alone wars are profitable; that the true and just conquests are those which each makes at home, by comforting the peasantry; by promoting agriculture and manufactures; by multiplying men, and the other productions of nature; that then it is that kings may call themselves the image of God, whose will is perpetually directed to the creation of new beings. If they continue to make us fight and kill one another, in uniform, we will continue to write and speak, until nations shall be cured of this folly."—We are certain our present heavy burthens are owing, in a great measure to cruel and impolitic wars; and therefore we will do all on our part, as peaceable citizens who have the good of the community at heart, to enlighten each other, and protest against them.

"The present state of the representation of the people, calls for the particular attention of every man who has humanity sufficient to feel for the honour and happiness of his country; to the defects and corruptions of which we are inclined to attribute unnecessary wars, oppressive taxes, &c. We think it a deplorable case, when the poor must support a *corruption* which is calculated to oppress them; when the labourer must give his money to afford the means of preventing him having a voice in its disposal; when the lower classes may say,—“We give you our money, for which we have toiled and sweated, and which would save our families from cold and hunger; but we think it more hard, that there is nobody whom we have delegated, to see that it is not improperly and wickedly spent. We have none to watch over *our* interests, The rich only are represented.—

—“An equal and uncorrupt representation would, we are persuaded, save us from heavy expenses, and deliver us from many oppressions. We will therefore do our duty to procure this reform, which appears to us of the utmost importance.”

“In short, we see with the most lively concern, an army of placemen, pensioners, &c. fighting in the

cause of corruption and prejudice, and spreading the contagion far and wide.”—

—“ We see with equal sensibility the present outcry against reforms, and a proclamation (tending to cramp the liberty of the press, and discredit the true friends of the people) receiving the support of numbers of our countrymen.”—

—“ We see burthens multiplied ; the lower classes sinking into poverty, disgrace, and excesses ; and the means of these shocking abuses increased for the purposes of revenue.”—

—“ We ask ourselves—‘ Are we in England ? —Have our forefathers fought, bled, and conquered for liberty ?—And did they not think that the fruits of their patriotism would be more abundant in peace, plenty, and happiness ?’—

—“ Is the condition of the poor never to be improved ?—Great Britain must have arrived at the highest degree of national happiness and prosperity, and our situation must be too good to be mended, or the present outcry against reforms and improvements is inhuman and criminal. But we hope our condition will be speedily improved, and to obtain so desirable a good, is the object of our present association ; a union founded on principles of benevolence and humanity ; disclaiming all connexion with riots and disorder ; but firm in our purpose, and warm in our affections for liberty.

“ Lastly—We invite the friends of freedom throughout Great Britain to form similar societies, and to act with unanimity and firmness, till the people be too wise to be imposed upon ; and their influence in the government be commensurate with their dignity and importance. *“ Then shall we be free and happy.”*

Such, gentlemen, is the language, which a subject of Great Britain thinks himself warranted to hold, and upon such language has the corroborating sanction of a British jury been stamped by a verdict of acquittal. Such was the honest and manly freedom of publication, in a country too where the complaint of

abuses has not half the foundation it has here. I said I loved to look to England for the principles of judicial example. I say to you, that it depends on your spirit whether I shall look to it hereafter with sympathy or with shame. Be pleased now, gentlemen, to consider whether the statement of the imperfection in your representation, has been made with a desire of inflaming an attack upon the publick tranquillity, or with an honest purpose of procuring a remedy for an actually existing grievance.

It is impossible not to revert to the situation of the times; and let me remind you, that whatever observations of this kind I am compelled thus to make in a court of justice, the uttering of them in this place is not imputable to my client, but to the necessity of defence imposed upon him by this extraordinary prosecution.

Gentlemen, the representation of your people is the vital principle of their political existence; without it, they are dead, or they live only to servitude; without it, there are two estates acting upon and against the third, instead of acting in cooperation with it; without it, if the people are oppressed by their judges, where is the tribunal to which their judges can be amenable? Without it, if they are trampled upon and plundered by a minister, where is the tribunal to which the offender shall be amenable? Without it, where is the ear to hear, or the heart to feel, or the hand to redress their sufferings? Shall they be found, let me ask you, in the accursed band of imps and minions that bask in their disgrace, and fatten upon their spoils, and flourish upon their ruin? But let me not put this to you as a merely speculative question. It is a plain question of fact. Rely upon it, physical man is every where the same. It is only the operation of moral causes that gives variety to the social or individual character and condition. How happens it, that modern slavery looks quietly at the despot on the very spot where Leonidas expired? The answer is easy, Sparta has not changed her climate, but she has lost that government which her liberty could not survive.

I call you, therefore, to the plain question of fact. This paper recommends a reform in parliament. I put that question to your consciences, Do you think it needs that reform? I put it boldly and fairly to you, do you think the people of Ireland are represented as they ought to be? Do you hesitate for an answer? If you do, let me remind you, that until the last year three millions of your countrymen have by the express letter of the law been excluded from the reality of actual, and even from the phantom of virtual representation. Shall we then be told that this is only the affirmation of a wicked and seditious incendiary? If you do not feel the mockery of such a charge, look at your country. In what state do you find it? Is it in a state of tranquillity and general satisfaction? These are traces by which good is ever to be distinguished from bad government. Without any very minute inquiry or speculative refinement, do you feel that a veneration for the law, a pious and humble attachment to the constitution, form the political morality of your people? Do you find that comfort and competency among your people, which are always to be found where a government is mild and moderate; where taxes are imposed by a body who have an interest in treating the poorer orders with compassion, and preventing the weight of taxation from pressing sore upon them?

Gentlemen, I mean not to impeach the state of your representation. I am not saying that it is defective, or that it ought to be altered or amended: nor is this a place for me to say, whether I think that three millions of the inhabitants of a country whose whole number is but four, ought to be admitted to any efficient situation in the state. It may be said and truly, these are not questions for either of us directly to decide: but you cannot refuse them some passing consideration at least, when you remember that on this subject the real question for your decision is, whether the allegation of a defect in your constitution is so utterly unfounded and false, that you can ascribe it only to the malice and perverseness of

a wicked mind, and not to the innocent mistake of an ordinary understanding; whether it cannot be mistake; whether it can be only sedition.

And here, gentlemen, I own I cannot but regret, that one of our countrymen should be criminally pursued for asserting the necessity of a reform, at the moment when that necessity seems admitted by the parliament itself. That this unhappy reform shall at the same moment be a subject of legislative discussion, and criminal prosecution. Far am I from imputing any sinister design to the virtue or wisdom of our government: but who can avoid feeling the deplorable impression that must be made on the publick mind, when the demand for that reform is answered by a criminal information?

I am the more forcibly impressed by this concern, when I consider, that when this information was first put upon the file, the subject was transiently mentioned in the house of commons. Some circumstances retarded the progress of the inquiry there; and the progress of the information was equally retarded here. The first day of this session you all know, that subject was again brought forward in the house of commons; and, as if they had slept together, this prosecution was also revived in the court of king's bench; and that before a jury, taken from a pannel, partly composed of those very members of parliament, who, in the house of commons, must debate upon this subject as a measure of publick advantage, which they might have here to consider as a publick crime.

This paper, gentlemen, insists upon the necessity of emancipating the Catholicks of Ireland, and that is charged as a part of the libel. If they had waited another year; if they had kept this prosecution impending for another year, how much would remain for a jury to decide upon, I should be at a loss to discover. It seems as if the progress of publick reformation was eating away the ground of the prosecution. Since the commencement of the prosecution, this part of the libel has unluckily received the

sanction of the legislature. In that interval our Catholick brethren have obtained that admission, which, it seems, it was a libel to propose. In what way to account for this, I am really at a loss. Have any alarms been occasioned by the emancipation of our Catholick brethren? Has the bigotted malignity of any individuals been crushed? Or has the stability of the government, or has that of the country been weakened? Or is one million of subjects stronger than four millions? Do you think that the benefit they receive should be poisoned by the stings of vengeance? If you think so, you must say to them, "you have demanded your emancipation, and you have got it: but we abhor your persons; we are outraged at your success; and we will stigmatize by a criminal prosecution the relief which you have obtained from the voice of your country." I ask you, gentlemen, do you think as honest men, anxious for the publick tranquillity; conscious that there are wounds not yet completely cicatrized, that you ought to speak this language at this time, to men who are too much disposed to think, that in this very emancipation, they have been saved from their own parliament by the humanity of their sovereign? Or do you wish to prepare them for the revocation of these improvident concessions? Do you think it wise or humane at this moment to insult them, by sticking up in a pillory the man who dared to stand forth their advocate? I put it to your oaths, do you think, that a blessing of that kind, that a victory obtained by justice over bigotry and oppression, should have a stigma cast upon it by an ignominious sentence upon men bold and honest enough to propose that measure; to propose the redeeming of religion from the abuses of the church; the reclaiming of three millions of men from bondage; and giving liberty to all who had a right to demand it; giving, I say, in the so much censured words of this paper, giving "**UNIVERSAL EMANCIPATION!**"—I speak in the spirit of the British law, which makes liberty commensurate with, and inseparable from, the British soil;

which proclaims even to the stranger and the sojourner, the moment he sets his foot upon British earth, that the ground on which he treads is holy, and consecrated by the genius of **UNIVERSAL EMANCIPATION**. No matter in what language his doom may have been pronounced. No matter what complexion incompatible with freedom, an Indian or an African sun may have burnt upon him. No matter in what disastrous battle his liberty may have been cloven down. No matter with what solemnities he may have been devoted upon the altar of slavery. The first moment he touches the sacred soil of Britain, the altar and the god sink together in the dust; his soul walks abroad in her own majesty; his body swells beyond the measure of his chains, that burst from around him, and he stands redeemed, regenerated, and disenthralled, by the irresistible Genius of **UNIVERSAL EMANCIPATION!***——

Mr. Curran then proceeded.—Gentlemen, I am not such a fool, as to ascribe any effusion of this sort to any merit of mine. It is the mighty theme, and not the inconsiderable advocate, that can excite interest in the hearer. What you hear is but the testimony which nature bears to her own character. It is the effusion of her gratitude to that power which stamp'd that character upon her.

And, gentlemen, permit me to say, that if my client had occasion to defend his cause by any mad or drunken appeals to extravagance or licentiousness, I trust in God, I stand in that situation, that, humble as I am, he would not have resorted to me to be his advocate. I was not recommended to his choice by any connexion of principle or party, or even private friendship: and saying this, I cannot but add,

* Here Mr. Curran was interrupted by a sudden burst of applause from the court and hall; silence, however, was restored after some minutes, by the interposition of Lord Clonmel, who declared the great pleasure he himself felt, at the exertion of professional talents, but disapproved any intemperate expression of applause in a court of justice.

that I consider not to be acquainted with such a man as Mr. Rowan, a want of personal good fortune.

Gentlemen, upon this great subject of reform and emancipation, there is a latitude and boldness of remark, justifiable in the people, and necessary to the defence of Mr. Rowan, for which the habits of professional studies, and technical adherence to established forms, have rendered me unfit. It is, however, my duty, standing here as his advocate, to make some few observations to you, which I conceive to be material.

Gentlemen, you are sitting in a country, which has a right to the British constitution, and which is bound by an indissoluble union with the British nation. If you were now even at liberty to debate upon that subject; if you even were not by the most solemn compacts, founded upon the authority of your ancestors and of yourselves, bound to that alliance, and had an election now to make; in the present unhappy state of Europe, if you had heretofore been a stranger to Great Britain, you would now say, we will enter into society and union with you:

Una salus ambobus erit, commune periculum.

But to accomplish that union let me tell you, you must learn to become like the English people. It is vain to say, you will protect their freedom if you abandon your own. The pillar whose base has no foundation, can give no support to the dome under which its head is placed; and if you profess to give England that assistance which you refuse to yourselves, she will laugh at your folly, and despise your meanness and insincerity.

Let us follow this a little further. I know you will interpret what I say with the candour in which it is spoken. England is marked by a natural avarice of freedom, which she is studious to engross and accumulate, but most unwilling to impart, whether from any necessity of her policy, or from her weakness, or from her pride I will not presume to say: but that so is the fact, you need not look to the east, or to the west—you need only look to yourselves.

In order to confirm that observation, I would appeal to what fell from the learned counsel for the crown, that notwithstanding the alliance subsisting for two centuries past, between the two countries, the date of liberty in one goes no further back than the year 1784.

If it required additional confirmation, I should state the case of the invaded American, and the subjugated Indian, to prove that the policy of England has ever been to govern her connexions more as colonies than as allies; and it must be owing to the great spirit indeed of Ireland if she shall continue free. Rely upon it, she will ever have to hold her course against an adverse current. Rely upon it, if the popular spring does not continue strong and elastick, a short interval of debilitated nerve and broken force will send you down the stream again, and re-consign you to the condition of a province.

If such should become the fate of your constitution, ask yourselves what must be the motive of your government? It is easier to govern a province by a faction, than to govern a co-ordinate country by co-ordinate means. I do not say it is now; but it will be always thought easiest by *the managers of the day*, to govern the Irish nation by the agency of such a faction, as long as this country shall be found willing to let her connexion with Great Britain be preservd only by her own degradation. In such a precarious and wretched state of things, if it shall ever be found to exist, the true friend of Irish liberty, and British connexion, will see, that the only means of saving both must be, as lord Chatham expressed it, "the infusion of new health and blood into the constitution." He will see how deep a stake each country has in the liberty of the other. He will see what a bulwark he adds to the common cause, by giving England a co-ordinate, and co-interested ally, instead of an oppressed, enfeebled, and suspected dependant. He will see how grossly the credulity of Britain is abused by those, who make her believe, that her solid interest is promoted by our depression. He will see the desperate

precipice to which she approaches by such a conduct, and, with an animated and generous piety, he will labour to avert her danger. But, gentlemen of the jury, what is likely to be his fate? The interest of the sovereign must be forever the interest of his people; because his interest lives beyond his life; it must live in his fame; it must live in the tenderness of his solicitude for an unborn posterity; it must live in that heart attaching bond, by which millions of men have united the destinies of themselves and their children with his, and call him by the endearing appellation of king and father of his people.

But what can be the interest of such a government as I have described? Not the interest of the king, not the interest of the people; but the sordid interest of the hour; the interest in deceiving the one, and in oppressing and deforming the other; the interest of unpunished rapine and unmerited favour; that odious and abject interest, that prompts them to extinguish publick spirit in punishment or in bribe; and to pursue every man even to death, who has sense to see, and integrity and firmness enough to abhor and to oppose them. What therefore, I say, gentlemen, will be the fate of the man, who embarks in an enterprise of so much difficulty and danger? I will not answer it. Upon that hazard, has my client put every thing that can be dear to man:—his fame, his fortune, his person, his liberty, and his children; but with what event your verdict only can answer, and to that I refer your country.

Gentlemen, there is a fourth point remaining.— Says this paper, “for both these purposes, it appears necessary that provincial conventions should assemble preparatory to the convention of the protestant people. The delegates of the Catholick body are not justified in communicating with individuals, or even bodies of an inferiour authority, and therefore an assembly of a similar nature and organization, is necessary to establish an intercourse of sentiment, a uniformity of conduct, a united cause, and a united nation. If a convention on the one part does not soon follow, and is

not connected with that on the other, the common cause will split into partial interests; the people will relax into inattention and inertness; the union of affection and exertion will dissolve, and too probably some local insurrection, instigated by the malignity of our common enemy, may commit the character and risk the tranquillity of the island, which can be obviated only by the influence of an assembly arising from and assimilated with the people, and whose spirit may be as it were, knit with the soul of the nation, unless the sense of the protestant people, be on their part as fairly collected and as judiciously directed, unless individual exertion consolidates into collective strength, unless the particles unite into one mass, we may perhaps serve some person or some party for a little, but the publick not at all. The nation is neither insolent, nor rebellious, nor seditious. Whilst it knows its rights, it is unwilling to manifest its powers. It would rather supplicate administration to anticipate revolution by well timed reform, and to save their country in mercy to themselves."

Gentlemen, it is with something more than common reverence, it is with a species of terroure, that I am obliged to tread this ground.—But what is the idea put in the strongest point of view.—We are willing not to manifest our powers, but to supplicate administration, to anticipate revolution, that the legislature may save the country in mercy to itself.

Let me suggest to you, gentlemen, that there are some circumstances which have happened in the history of this country, that may better serve as a comment upon this part of the case than any I can make. I am not bound to defend Mr. Rowan as to the truth or wisdom of the opinions he may have formed. But if he did really conceive the situation of the country such, as that the not redressing her grievances might lead to a convulsion, and of such an opinion not even Mr. Rowan is answerable here for the wisdom, much less shall I insinuate any idea of my own upon so awful a subject; but if he did so conceive the fact to be, and acted from the fair and honest suggestion

of a mind anxious for the publick good, I must confess, gentlemen, I do not know in what part of the British constitution to find the principle of his criminality.

But, gentlemen, be pleased further to consider, that he cannot be understood to put the fact on which he argues on the authority of his assertion. The condition of Ireland was as open to the observation of every other man as to that of Mr. Rowan; what does this part of the publication amount to? In my mind, simply to this: "the nature of oppression in all countries is such, that although it may be born to a certain degree, it cannot be born beyond that degree. You find it exemplified in Great Britain. You find the people of England patient to a certain point; but patient no longer. That infatuated monarch James II. experienced this. The time did come, when the measure of popular suffering, and popular patience was full; when a single drop was sufficient to make the waters of bitterness to overflow. I think this measure in Ireland is brimful at present. I think the state of representation of the people in parliament is a grievance. I think the utter exclusion of three millions of people, is a grievance of that kind that the people are not likely long to endure; and the continuation of which may plunge the country into that state of despair which wrongs exasperated by perseverance never fail to produce." But to whom is even this language addressed? Not to the body of the people, on whose temper and moderation, if once excited, perhaps not much confidence could be placed; but to that authoritative body whose influence and power would have restrained the excesses of the irritable and tumultuous; and for that purpose expressly does this publication address the volunteers. "We are told that we are in danger. I call upon you, the great constitutional saviours of Ireland, to defend the country to which you have given political existence; and use whatever sanction your great name, your sacred character, and the weight you have in the community, must give you, to repress wicked designs, if any there are."—

"We feel ourselves strong. The people are always strong. The publick chains can only be rivetted by the publick hands. Look to those devoted regions of southern despotism. Behold the expiring victim on his knees, presenting the javelin reeking with his blood to the ferocious monster who returns it into his heart. Call not that monster the tyrant. He is no more than the executioner of that inhuman tyranny which the people practise upon themselves; and of which he is only reserved to be a later victim than the wretch he has sent before. Look to a nearer country, where the sanguinary characters are more legible; whence you almost hear the groans of death and torture. Do you ascribe the rapine and murder of France to the few names that we are execrating here? or do you not see that it is the phrenzy of an infuriated multitude abusing its own strength, and practising those hideous abominations upon itself. Against the violence of this strength let your virtue and influence be our safeguard."

What criminality, gentlemen of the jury, can you find in this? What at any time? But I ask you, particularly at this momentous period, what guilt can you find in it? My client saw the scene of horror and blood which covers almost the face of Europe. He feared that causes, which he thought similar, might produce similar effects; and he seeks to avert those dangers by calling the united virtue and tried moderation of the country into a state of strength and vigilance. Yet this is the conduct which the prosecution of this day seeks to stigmatize. And this is the language for which this paper is reprobated to day, as tending to turn the hearts of the people against their sovereign, and inviting them to overturn the constitution.

Let us now, gentlemen, consider the concluding part of this publication.—It recommends a meeting of the people to deliberate on constitutional methods of redressing grievances.—Upon this subject I am inclined to suspect that I have in my youth taken up crude ideas, not founded, perhaps, in law: but I

did imagine that when the bill of rights restored the right of petitioning for the redress of grievances, it was understood that the people might boldly state among themselves, that grievances did exist; that they might lawfully assemble themselves in such a manner as they might deem most orderly and decorous. I thought I had collected it from the greatest luminaries of the law. The power of petitioning seemed to me to imply the right of assembling for the purpose of deliberation. The law requiring a petition to be presented by a limited number, seemed to me to admit that the petition might be prepared by any number whatever, provided, in doing so, they did not commit any breach or violation of the publick peace. I know that there has been a law passed in the Irish parliament of last year, which may bring my former opinion into a merited want of authority. That law declares, "that no body of men may delegate a power to any similar number, to act, think, or petition for them!"—If that law had not passed, I should have thought that the assembling by a delegated convention was recommended, in order to avoid the tumult and disorder of a promiscuous assembly of the whole mass of the people.—I should have conceived before that act, that any law to abridge the orderly appointment of the few to consult for the interest of the many, and thus force the many to consult by themselves or not at all, would in fact be a law not to restrain but to promote insurrection: but that law has spoken, and my error must stand corrected. Of this, however, let me remind you. You are to try this part of the publication by what the law was then: not by what it is now. How was it understood until last session of parliament? You had both in England and Ireland, for the last ten years, these delegated meetings. The volunteers of Ireland, in 1782, met by delegation; they framed a plan of parliamentary reform; they presented it to the representative wisdom of the nation. It was not received, but no man ever dreamed that it was not the undoubted right of the subject to assemble in that manner.

They assembled by delegation at Dungannon, and to show the idea then entertained of the legality of their publick conduct, that same body of volunteers was thanked by both houses of parliament, and their delegates most graciously received at the throne. The other day, you had delegated representatives for the catholicks of Ireland, publickly elected by the members of that persuasion, and sitting in convention in the heart of your capital, carrying on an actual treaty with the existing government, and under the eye of your own parliament, which was then assembled. You have seen the delegates from that convention, carry the complaints of their grievances to the foot of the throne; from whence they brought back to that convention, the auspicious tidings of that redress which they had been refused at home.

Such, gentlemen, have been the means of popular communication and discussion, which, until the last session have been deemed legal in this country; as happily for the sister kingdom, they are yet considered there.

I do not complain of this act as any infraction of popular liberty. I should not think it becoming in me to express any complaint against a law, when once become such. I observe only, that one mode of popular deliberation is hereby taken utterly away, and you are reduced to a situation in which you never stood before. You are living in a country, where the constitution is rightly stated to be only ten years old; where the people have not the ordinary rudiments of education. It is a melancholy story, that the lower orders of the people here have less means of being enlightened than the same class of people in any other country. If there be no means left by which publick measures can be canvassed, what will be the consequence? Where the press is free, and discussion unrestrained, the mind by the collision of intercourse, gets rid of its own asperities, a sort of insensible perspiration takes place, by which those acrimonies, which would otherwise fester and inflame, are quietly dissolved and dissipated. But now, if any

aggregate assembly shall meet, they are censured; if a printer publishes their resolutions, he is punished; rightly to be sure in both cases, for it has been lately done!—If the people say, let us not create tumult, but meet in delegation, they cannot do it. If they are anxious to promote parliamentary reform, in that way, they cannot do it. The law of the last session has for the first time declared such meetings to be a crime!—What then remains?—Only the liberty of the press, that sacred palladium, which no influence, no power, no minister, no government, which nothing but the depravity, or folly of a jury, can ever destroy.

And what calamity are the people saved from, by having publick communication left open to them? I will tell you, gentlemen, what they are saved from, and what the government is saved from. I will tell you also, to what both are exposed by shutting up that communication. In one case sedition speaks aloud, and walks abroad; the demagogue goes forth; the publick eye is upon him; he frets his busy hour upon the stage; but soon either weariness, or bribe, or punishment, or disappointment, bear him down, or drive him off, and he appears no more. In the other case, how does the work of sedition go forward?—Night after night, the muffled rebel steals forth in the dark, and casts another and another brand upon the pile, to which, when the hour of fatal maturity shall arrive, he will apply the flame. If you doubt of the horrid consequences of suppressing the effusion of individual discontent, look to those enslaved countries where the protection of despotism is supposed to be secured by such restraints, even the person of the despot there is never in safety. Neither the fears of the despot, nor the machinations of the slave have any slumber: the one anticipating the moment of peril; the other watching the opportunity of aggression. The fatal crisis is equally a surprize upon both. The decisive instant is precipitated without warning, by folly on the one side, or by phrensy on the other; and there is no notice of the treason till the traitor acts. In those unfortunate

countries (one cannot read it without horror) there are officers whose province it is, to have the water, which is to be drank by their rulers, sealed up in bottles, lest some wretched miscreant should throw poison into the draught!

But, gentlemen, if you wish for a nearer and more interesting example, you have it in the history of your own revolution. You have it at that memorable period, when the monarch found a servile acquiescence in the ministers of his folly; when the liberty of the press was trodden under foot; when venal sheriffs returned packed juries to carry into effect those fatal conspiracies of the few against the many; when the devoted benches of publick justice were filled by some of those foundlings of fortune, who, overwhelmed in the torrent of corruption at an early period, lay at the bottom like drowned bodies, while soundness or sanity remained in them; but at length becoming buoyant by putrefaction, they rose as they rotted, and floated to the surface of the polluted stream, where they were drifted along, the objects of terroure, and contagion, and abomination!

In that awful moment of a nation's travail, of the last gasp of tyranny, and the first breath of freedom, how pregnant is the example? The press extinguished, the people enslaved, and the prince undone!

As the advocate of society, therefore, of peace, of domestick liberty, and the lasting union of the two countries, I conjure you to guard the liberty of the press, that great sentinel of the state, that grand detector of publick imposture: guard it, because when it sinks, there sinks with it in one common grave, the liberty of the subject and the security of the crown.

Gentlemen, I am glad that this question has not been brought forward earlier. I rejoice for the sake of the court, of the jury, and of the publick repose, that this question has not been brought forward till now. In Great Britain, analogous circumstances have taken place. At the commencement of that unfortunate war which has deluged Europe with

blood, the spirit of the English people was tremblingly alive to the terror of French principles. At that moment of general paroxysm, to accuse was to convict. The danger loomed larger to the publick eye, from the misty medium through which it was surveyed. We measure inaccessible heights by the shadows which they project, where the lowness and the distance of the light form the length of the shade.

There is a sort of aspiring and adventurous credulity, which disdains assenting to obvious truths, and delights in catching at the improbability of circumstances, as its best ground of faith. To what other cause, gentlemen, can you ascribe that in the wise, the reflecting, and the philosophick nation of Great Britain, a printer has been found guilty of a libel, for publishing those resolutions, to which the present minister of that kingdom had actually subscribed his name? To what other cause can you ascribe, what in my mind is still more astonishing, in such a country as Scotland, a nation cast in the happy medium between the spiritless acquiescence of submissive poverty, and the sturdy credulity of pampered wealth; cool and ardent, adventurous and persevering; winging her eagle flight against the blaze of every science, with an eye that never winks, and a wing that never tires; crowned as she is with the spoils of every art, and decked with the wreath of every muse; from the deep and scrutinizing researches of her Hume, to the sweet and simple, but not less sublime and pathetick morality of her Burns. How, from the bosom a country like that, genius and character, and talents, should be banished to a distant barbarous soil; condemned to pine under the horrid communion of vulgar vice and base-born profligacy, for twice the period that ordinary calculation gives to the continuance of human life? * But I will not further press any idea that is painful to me, and I am sure must be painful to you. I will only say, you have

* Alluding to the banishment of the Scotch reformers, Muir, Palmer, &c.

now an example of which neither England nor Scotland had the advantage. You have the example of the panick, the infatuation, and the contrition of both. It is now for you to decide, whether you will profit by their experience of idle panick and idle regret, or whether you merely prefer to palliate a servile imitation of their frailty, by a paltry affectation of their repentance. It is now for you to show that you are not carried away by the same hectic delusions, to acts, of which no tears can wash away the consequences, or the indelible reproach.

Gentlemen, I have been warning you by instances of publick intellect suspended or obscured; let me rather excite you by the example of that intellect recovered and restored. In that case which Mr. Attorney General has cited himself, I mean that of the trial of Lambert in England, is there a topick of invective against constituted authorities; is there a topick of abuse against every department of British government, that you do not find in the most glowing and unqualified terms in that publication, for which the printer of it was prosecuted, and acquitted by an English jury? See too what a difference there is between the case of a man publishing his own opinion of facts, thinking that he is bound by duty to hazard the promulgation of them, and without the remotest hope of any personal advantage, and that of a man who makes publication his trade.—And saying this, let me not be misunderstood; it is not my province to enter into any abstract defence of the opinions of any man upon publick subjects. I do not affirmatively state to you that these grievances, which this paper supposes, do in fact exist; yet I cannot but say, that the movers of this prosecution have forced that question upon you. Their motives and their merits, like those of all accusers, are put in issue before you; and I need not tell you how strongly the motive and merits of any *informer* ought to influence the fate of his accusation.

I agree most implicitly with Mr. Attorney General, that nothing can be more criminal than an attempt to

work a change in the government, by armed force: and I intreat that the court will not suffer any expression of mine to be considered as giving encouragement or defence to any design to excite disaffection, to overawe or to overturn the government. But I put my client's case upon another ground. If he was led into an opinion of grievances where there were none; if he thought there ought to be a reform where none was necessary, he is answerable only for his intention. He can be answerable to you in the same way only that he is answerable to that God, before whom the accuser, the accused, and the judge must appear, together: that is, not for the clearness of his understanding, but for the purity of his heart.

Gentlemen, Mr. Attorney General has said, that Mr. Rowan did by this publication (supposing it to be his) recommend, under the name of equality, a general indiscriminate assumption of publick rule by every, the meanest person in the state. Low as we are in point of publick information, there is not, I believe, any man, who thinks for a moment, that does not know, that all which the great body of the people of any country can have from any government, is a fair encouragement to their industry, and protection for the fruits of their labour. And there is scarcely any man, I believe, who does not know, that if a people could become so silly as to abandon their stations in society, under pretence of governing themselves, they would become the dupes and the victims of their own folly. But does this publication recommend any such infatuated abandonment, or any such desperate assumption? I will read the words which relate to that subject. "By liberty we never understood unlimited freedom, nor by equality, the levelling of property or destruction of subordination." I ask you with what justice, upon what principle of common sense, you can charge a man with the publication of sentiments, the very reverse of what his words avow; and that, when there is no collateral evidence, where there is no foundation whatever, save those very words, by which his meaning can be ascertained? or if you do

adopt an arbitrary principle of imputing to him *your* meaning instead of his own, what publication can be guiltless or safe? It is a sort of accusation that I am ashamed and sorry to see introduced in a court acting on the principles of the British constitution.

In the bitterness of reproach it was said, "out of thine own mouth will I condemn thee." From the severity of justice I demand no more. See if in the words that have been spoken, you can find matter to acquit, or to condemn. "By liberty we never understood unlimited freedom, nor by equality the levelling of property, nor the destruction of subordination. This is a calumny invented by that faction, or that gang, which misrepresents the king to the people, and the people to the king; traduces one half of the nation to cajole the other; and, by keeping up distrust and division, wishes to continue the proud arbitrators of the fortune and fate of Ireland." Here you find that meaning disclaimed as a calumny, which is artfully imputed as a crime.

I say, therefore, gentlemen of the jury, as to the four parts into which the publication must be divided, I answer thus: It calls upon the volunteers. Consider the time, the danger, the authority of the prosecutors themselves for believing that danger to exist: the high character, the known moderation, the approved loyalty of that venerable institution: the similarity of the circumstances between the period at which they are summoned to take arms, and that in which they have been called upon to reassume them. Upon this simple ground, gentlemen, you will decide, whether this part of the publication was libellous and criminal or not.

As to reform, I could wish to have said nothing upon it. I believe I have said enough. If he thought the state required it, he acted like an honest man. For the rectitude of the opinion he was not answerable. He discharged his duty in telling the country that he thought so.

As to the emancipation of the Catholics, I cannot but say that Mr. Attorney General did very wisely in

keeping clear of that. Yet, gentlemen, I need not tell you how important a figure it was intended to make upon the scene, though from unlucky accidents, it has become necessary to expunge it during the rehearsal.

Of the concluding part of this publication, the convention which it recommends, I have spoken already. I wish not to trouble you with saying more upon it. I feel that I have already trespassed much upon your patience. In truth, upon a subject embracing such a variety of topics, a rigid observance either of conciseness or arrangement could perhaps scarcely be expected. It is however with pleasure I feel I am drawing to a close, and that only one question remains, to which I beg your attention.

Whatever, gentlemen, may be your opinion of the meaning of this publication, there yet remains a great point for you to decide upon; namely, whether, in point of fact, this publication be imputable to Mr. Rowan or not?—Whether he did publish it or not?—And two witnesses are called to that fact, one of the name of *Lyster*, and the other of the name of *Morton*.—You must have observed, that Morton gave no evidence upon which that paper could even have been read; he produced no paper; he identified no paper; so that in point of law, there was no evidence to be given to a jury; and, therefore it turns entirely upon the evidence of the other witness. He has stated that he went to a publick meeting, in a place where there was a gallery crowded with spectators; and that he there got a printed paper, the same which has been read to you.

I know you are well acquainted with the fact, that the credit of every witness must be considered by, and rest with the jury.—They are the sovereign judges of that circumstance; and I will not insult your feelings, by insisting on the caution with which you should watch the testimony of a witness that seeks to affect the liberty, or property, or character of your fellow citizens. Under what circumstances does this evidence come before you? The witness says he has got a commission in the army by the interest of a lady,

from a person then high in administration. He told you that he made a memorandum upon the back of that paper, it being his general custom, when he got such papers to make an endorsement upon them; that he did this from mere fancy; that he had no intention of giving any evidence on the subject; he took it with no such view.

There is something whimsical enough in this curious story. Put his credit upon the positive evidence adduced to his character. Who he is I know not. I know not the man: but his credit is impeached. Mr. Blake was called, he said he knew him. I asked him, "do you think, Sir, that Mr. Lyster is or is not a man deserving credit upon his oath?"—If you find a verdict of conviction it can be only upon the credit of Mr. Lyster. What said Mr. Blake? Did he tell you that he believed he was a man to be believed upon his oath?" He did not attempt to say that he was. The best he could say was, that he would hesitate. Do you believe Blake? Have you the same opinion of Lyster's testimony that Mr. Blake has? Do you know Lyster? If you do know him, and know that he is credible, your knowledge should not be shaken by the doubts of any man. But if you do not know him, you must take his credit from an unimpeached witness, swearing that he would hesitate to believe him."

In my mind, there is a circumstance of the strongest nature that came out from Lyster on the table. I am aware, that a very respectable man, if impeached by surprise, may not be ready prepared to repel a wanton calumny by contrary testimony. But was Lyster unapprized of this attack upon him? What said he? "I knew that you had Blake to examine against me. You have brought him here for that purpose." He knew the very witness that was to be produced against him; he knew that his credit was impeached, and yet he produced no person to support that credit. What said Mr. Smyth? "From my knowledge of him I would not believe him upon his oath."

Mr. Attorney General. I beg pardon, but I must set Mr. Curran right. Mr. Lyster said, he heard Blake would be here but not in time to prepare himself.

Mr. Curran. But what said Mrs. Hatchell? Was the production of that witness a surprise upon Mr. Lyster? her cross examination shows the fact to be the contrary. The learned counsel, you see, was perfectly apprized of a chain of private circumstances, to which he pointed his questions. Did he know these circumstances by inspiration? No. They could come only from Lyster himself. I insist, therefore, the gentleman knew his character was to be impeached; his counsel knew it; and not a single witness has been produced to support it. Then consider, gentlemen, upon what ground you can find a verdict of conviction against my client, when the only witness produced to the fact of publication is impeached, without even an attempt to defend his character. Many hundreds, he said, were at that meeting; why not produce one of them to swear to the fact of such a meeting? One he has ventured to name: but he was certainly very safe in naming a person, who he has told you is not in the kingdom, and could not therefore be called to confront him.

Gentlemen, let me suggest another observation or two. If still you have any doubt as to the guilt or innocence of the defendant, give me leave to suggest to you what circumstances you ought to consider, in order, to found your verdict. You should consider the character of the person accused, and in this your task is easy. I will venture to say, there is not a man in this nation, more known than the gentleman who is the subject of this prosecution, not only by the part he has taken in publick concerns, and which he has taken in common with many, but still more so, by that extraordinary sympathy for human affliction, which, I am sorry to think, he shares with so small a number. There is not a day that you hear the cries of your

starving manufacturers in your streets, that you do not also see the advocate of their sufferings. That you do not see his honest and manly figure, with uncovered head soliciting for their relief, searching the frozen heart of charity for every string that can be touched by compassion, and urging the force of every argument and every motive, save that which his modesty suppresses: the authority of his own generous example. Or if you see him not there, you may trace his steps to the private abode of disease, and famine, and despair; the messenger of Heaven, bearing with him food and medicine, and consolation. Are these the materials, of which anarchy and publick rapine are to be formed? Is this the man, on whom to fasten the abominable charge of goading on a frantick populace to mutiny and bloodshed? Is this the man likely to apostatize from every principle that can bind him to the state, his birth, his property, his education, his character, and his children? Let me tell you, gentlemen of the jury, if you agree with his prosecutors, in thinking that there ought to be a sacrifice of such a man, on such an occasion, and upon the credit of such evidence, you are to convict him. Never did you, never can you give a sentence, consigning any man to publick punishment with less danger to his person or to his fame: for where could the hireling be found to fling contumely or ingratitude at his head, whose private distress he had not laboured to alleviate, or whose publick condition he had not laboured to improve.

I cannot, however, avoid adverting to a circumstance that distinguishes the case of Mr. Rowan, from that of a late sacrifice in a neighbouring kingdom.*

The severer law of that country, it seems, and happy for them that it should, enables them to remove from their sight the victim of their infatuation. The more merciful spirit of our law deprives you of that consolation. His sufferings must remain for ever

* Alluding to the banishment of Muir, Palmer, &c.

before your eyes, a continual call upon your shame and your remorse. But those sufferings will do more; they will not rest satisfied with your unavailing contrition, they will challenge the great and paramount inquest of society. The man will be weighed against the charge, the witness and the sentence; and impartial justice will demand, why has an *Irish* jury done this deed? The moment he ceases to be regarded as a criminal, he becomes of necessity an accuser. And, let me ask you, what can your most zealous defenders be prepared to answer to such a charge? When your sentence shall have sent him forth to that stage which guilt alone can render infamous, let me tell you, he will not be like a little statue upon a mighty pedestal, diminishing by elevation. But he will stand a striking and imposing object upon a monument, which, if it does not, and it cannot, record the atrocity of his crime, must record the atrocity of his conviction. And upon this subject, credit me when I say, that I am still more anxious for you, than I can possibly be for him. I cannot but feel the peculiarity of your situation. Not the jury of his own choice, which the law of England allows, but which ours refuses; collected in that box by a person, certainly no friend to Mr. Rowan; certainly not very deeply interested in giving him a very impartial jury. Feeling this, as I am persuaded you do, you cannot be surprised, however you may be distressed at the mournful presage, with which an anxious publick is led to fear the worst from your possible determination. But I will not, for the justice and honour of our common country, suffer my mind to be born away by such melancholy anticipation. I will not relinquish the confidence, that this day will be the period of his sufferings. And however merciless he has been hitherto pursued, that your verdict will send him home to the arms of his family and the wishes of his country. But if, which Heaven forbid, it hath still been unfortunately determined, that because he has not bent to power and authority, because, he would not bow down before

the golden calf and worship it, he is to be bound and cast into the furnace ; I do trust in God, that there is a redeeming spirit in the constitution, which will be seen to walk with the sufferer through the flames, and to preserve him unhurt by the conflagration.*——

* After Mr. *Curran* had concluded, there was another universal burst of applause through the court and hall, for some minutes, which was again silenced by the interference of Lord *Clonmel*.

MR. PITT'S SPEECH

ON REVENUE AND EXPENDITURE, DELIVERED IN THE HOUSE
OF COMMONS, FEBRUARY 17, 1792.

THE house having resolved itself into a committee of the whole, to consider so much of his majesty's speech, on the opening of the session, as related to the publick revenue and expenditure, and these parts being read, Mr. Pitt, then chancellor of the exchequer arose, and delivered the following speech, which, with singular precision and luminous order reviews the finances of the country, and unfolds the hidden sources of its wealth and prosperity.

It belonged to his genius to mould the roughest materials into symmetry and proportion, and to smooth the deformities of every subject it touched. Into the *dead carcase* of a budget, which was always before his time loathsome and repulsive to the house, his eloquence infused so much animation and grace as to render it attractive. The present speech of this exalted statesman is one of the happiest examples of publick speaking; where the minute details of business are blended with the ornaments of imagination, and the fascinations of style.

SPEECH, &c.

THE paragraph in his majesty's speech which has been referred to this committee,* has already announced to us, and to the publick, the most welcome intelligence which it was possible for us to receive. It has raised the pleasing expectation, that, after all the difficulties with which we have struggled, the period is at length arrived, when, by the flourishing state of our finances, we may be enabled to enter on a system which will afford immediate and substantial relief to a large proportion of our constituents, and at the same time give additional security and effect to that important, and, I trust, inviolable system which has been adopted for the reduction of the national debt.

In proceeding to detail the measures which I shall propose with a view to these important objects, I shall consider it as my first and most indispensable duty to state, as distinctly as possible, every circumstance

* "It will, I am persuaded, give you great satisfaction to learn, that the extraordinary expenses incurred in the course of the last year have, in a great measure, been already defrayed by the grants of the session. The state of our resources will, I trust, be found more than sufficient to provide for the remaining part of these expenses, as well as for the current service of the year, the estimates for which I have directed to be laid before you.

"I entertain the pleasing hope, that the reductions which may be found practicable in the establishments, and the continued increase in the revenue, will enable you, after making due provision for the several branches of the publick service, to enter upon a system of gradually relieving my subjects from some part of the existing taxes; at the same time giving additional efficacy to the plan for the reduction of the national debt on the success of which our future ease and security essentially depend:

"With a view to this important object, let me also recommend it to you to turn your attention to the consideration of such measures as the state of the funds and of publick credit may render practicable and expedient, towards a reduction in the rate of interest of any of the annuities which are now redeemable."

which can be necessary for enabling all who hear me, not only to form a satisfactory judgment on the general result of our situation, but to examine the various calculations and reasonings on which that result is founded; and in attempting to execute so extensive a task, it is no small relief to my mind to reflect, that the repeated discussions which have taken place on questions of finance, have rendered them, in a great degree, familiar to the house and to the publick; and that, by the measures which have been adopted for simplifying the nature and form of the publick accounts, they are at length freed from that obscurity and intricacy in which they were formerly involved; and are rendered so clear and intelligible, that there is no man who may not, with a small degree of attention, become as fully master of the subject, as those whose official duty has led them to make it their peculiar study.

The first point, to which I wish to call the attention of the committee, is the amount of what may be considered as the probable future income of the country; and I will begin by recapitulating the result of the accounts for different years, which have been already stated. The produce of the permanent taxes in the last year, from the 5th of January, 1791, to the 5th of January, 1792, appears to have been 14,132,000*l.*; which, with the addition of 2,558,000*l.* (being the average amount of the annual duties on land and malt, as stated by the select committee last year) would make the total revenue of the year 16,690,000*l.* To this there must be added a sum, which, in the accounts on the table, has been included in the produce of the separate and temporary taxes imposed last year, for the purpose of defraying the expense of the Spanish armament, but which, in fact makes part of the general and permanent revenue. It will be recollected that an addition was made last year to the duties on bills and receipts, and the addition was consolidated with the old duty. The whole of this consolidated duty has been carried to the account of the separate fund; but only the excess beyond the

former produce can be considered as arising from the additional duty; and a sum equal to the former produce, being about 40,000*l.* is to be added to the other sums which I have stated, making the total revenue for the last year 16,730,000*l.*

The produce of the year preceding was 16,437,000*l.* after deducting the produce of a fifty-third week, which was included in the account of that year.

The principal branches of the revenue being paid from the respective offices into the exchequer, by weekly payments, on a stated day, a fifty-third weekly payment in the course of a year, recurs nearly in the proportion of once in every period of six years. In judging therefore of the probable future amount of the revenue, the produce of the fifty-third week ought not to be included in any one particular year, and it is therefore here deducted: but, on the other hand, one-sixth part of its amount, being about 32,000*l.* ought to be added to the average formed on any number of years. The average formed on the two last years, without this addition, would be 16,583,000*l.* and with it 16,615,000*l.*

The produce of the year ending on the 5th of January, 1790, was 15,991,000*l.* and the average of the last three years (making the same allowance for the fifty-third week) amounts to 16,418,000*l.*

If we look back still one year further, the produce of the year ending the 5th of January, 1789, was 15,565,000*l.* and the average formed on the last four years, amounts to 16,212,000*l.*

It appears therefore that the actual produce of the year 1791, being 16,730,000*l.* exceeds by above 500,000*l.* the average formed on the last four years; that it exceeds the average formed on the last two years by above 100,000*l.*—the average on the last three years by nearly 300,000*l.* and the actual produce of the last year but one, by nearly the same sum.

If then I form my calculation of our future revenue, not on the separate amount of any one of these particular years, but upon the average amount of four

years, during which there has been a constant increase, I am certainly not attempting to lead you into too favourable an opinion; but I am rather wishing to recommend that degree of caution, which the importance of the subject always deserves, and particularly at the present moment, when we are holding out hopes of relief, in which, above all things, we should be careful to avoid the chance of disappointment. I propose therefore to rest my computation upon this average produce of four years, being 16,212,000*l.* and this sum, on a general view of the subject, we may safely assume, as not being likely to exceed the permanent annual revenue of the country.

I shall next desire the committee to compare the statement of the annual revenue, with that of the permanent annual expenditure; and I shall take as the basis of this comparison, the estimates contained in the report of the committee appointed in the last session to examine the public income and expenditure, only making such corrections as arise from certain additions on the one hand, and reductions on the other, which at that time were not foreseen. The whole permanent expenditure as stated by the committee, (including therein the interest of the national debt, the million annually issued for the reduction of debt, the civil list, and all the permanent charges on the consolidated fund, as well as all the establishments which are annually voted) is 15,969,000*l.* to which there was added in the course of the last session (but subsequent to the report of the committee) the sum of 12,000*l.* charged on the consolidated fund, for the establishment of his royal highness the duke of Clarence; and a further sum of about 12,000*l.* for defraying the expense of the separate government of the province of Upper Canada. Besides this, some further provision will be necessary for the establishment of his royal highness the duke of York, on the happy event of his marriage; and this may probably occasion an addition of 18,000*l.*

The amount of these additional charges is 42,000*l.*

I have next to state those reductions which, as far as we can at present judge, may be expected to take place in our permanent establishments, although they cannot operate to their full extent in the present year. The first article of reductions is under the head of the naval service, in which I am inclined to hope that the number of seamen may be reduced to 16,000, being 2,000 less than last year. This will produce a saving of 104,000*l.* and a further saving of about 10,000*l.* may probably be made in the estimate for the works to be carried on in the dock-yards.

In the actual establishment of the army (after allowing for the proposed additions, which were explained when the army estimate was voted) there may probably be a diminution of about 50,000*l.*; and 36,000*l.* will be saved in consequence of the expiration of the treaty for the Hessian subsidy, which, under the present circumstances, his Majesty has not thought it necessary to renew.

If, therefore, allowance is made on the one hand for the addition of 42,000*l.* and for the reductions in the army and navy, amounting together to about 200,000*l.* the estimate of the permanent annual expenditure will stand at 15,811,000*l.*; the amount of the income of the last year, as I have before stated it, exceeds this sum by 919,000*l.*; the average of the amount of the two last years exceeds it by 804,000*l.*; the average of the three years by 607,000*l.*; and that of the four years on which I rest my calculations, by 401,000*l.* This then is the comparative view which I take of the permanent income, and the permanent expenditure; and, according to the lowest of these calculations, there remains a disposable annual surplus of about 400,000*l.* after defraying the expense of all the establishments, and applying the annual million to the reduction of the publick debt.

Before I submit to the committee the manner in which I would propose to distribute this surplus in future, I wish to advert to the supply, and ways and means for the present year, because in these there will be found some additional articles both of expen-

diture and of receipt. The supply for each year, as gentlemen are aware, includes all the establishments and the charges for the various branches of the public service, together with all incidental charges which are defrayed by annual grants. It is independent of the interest and charges of the national debt, of the million annually issued to the commissioners of the civil list, and of the other charges on the consolidated fund. The amount of all these articles is 11,391,000*l.* and being permanently fixed, forms no part of the supply voted in each year.

For the navy we have voted this year 16,000 seamen, of which the charge is 832,000*l.* for what is called the ordinary of the navy, 672,000*l.* and for the extraordinary building and repairs (including the work in the dock-yards) 350,000*l.* We have also voted 131,000*l.* towards the reduction of the navy debt, which is sufficient for defraying the whole of the extra expenses of the naval department in the last year (including those of the armament) as far as they have not been already defrayed by the surplus arising from former grants. These sums together make 1,985,000*l.*

The establishment of the army for the present year is 1,474,000.; the extraordinaries 277,000*l.*; besides 63,000*l.* advanced for the troops in India, which will ultimately be repaid by the company. The total voted for the army is 1,814,000*l.*

For the ordinary expenses of the ordnance there has been voted 221,000*l.*; for the extraordinaries nearly 157,000*l.*; and under the head of services performed in former years, but unprovided for, 44,000*l.* making in the whole the sum of 422,000*l.*

The estimates for the colonies and plantations amount to about 31,000*l.*

Various miscellaneous services, including the expense of African forts, the mint, the roads in Scotland, the maintenance and transportation of convicts, the sum paid for printing journals, and some other articles (particularly a compensation to the owners of African vessels for losses sustained in consequence

of the late regulations, and likewise to the settlers removed in the year 1786 from the Mosquito shore) amount in the whole to 114,000*l*.

There are two other articles which always form part of the annual statement of the supply, under the heads of deficiency of grants, and estimated deficiency of the land and malt, the nature of which is fully explained in the report of the committee of the last session, and for which allowance is made, though in a different shape, in the comparison of the permanent income and expenditure. The amount of the deficiency of grants is 436,000*l*. which includes in it the sum of 123,000*l*. repaid to the bank, in consequence of the diminution of their floating balance, out of which 500,000*l*. had been advanced for the supply of last year; and the deficiency on the land and malt may be estimated at 350,000*l*.

To these articles I shall propose to add two others. The first is 100,000*l*. out of the supplies of the present year, to be applied towards the discharge of the exchequer bills issued on account of the Spanish armament; by which means we shall be enabled to repeal immediately the additional duty on malt, the produce of which for the present year was appropriated to the separate fund created for that purpose. The second is an additional sum to be issued in this particular year, beyond the annual million, for the reduction of the national debt; and, on the comparison of the supply with the ways and means for the year, I think it will appear, that the sum may be safely stated at 400,000*l*.

I have now enumerated all the articles of the supply, except the debentures to the American loyalists. These I omit, because they are nearly balanced by the profit on the lottery, which I do not mean to include in the statement of ways and means.

The first article of the estimated ways and means for the present year, is the amount of the annual duties on land and malt, which may here be taken at 2,750,000*l*. because exchequer bills will be issued on the credit of these duties to that amount; and the

deficiency in the actual produce of the duties will, according to the usual practice, become a charge on the supply of future years, as the deficiency of the produce of former years is a charge on the supply of the present year. The next article consists of the sums which may be expected to be applied towards defraying the supply of the year out of the produce of the consolidated fund. This fund includes in it the whole amount of all the permanent taxes, and is applicable, in the first instance, to the payment at the end of each quarter of the permanent charges which I have before had occasion to enumerate. Any surplus which remains after payment of those charges is, from time to time, disposable by parliament; and a sum equal to the expected amount of that surplus in the course of a year is always voted as an article of ways and means. In voting the ways and means, it has for some time been the practice to calculate from the 5th of April in the current year, to the 5th of April following: so that the grants for the supply of each particular year are not expected to be completed till the expiration of the first quarter in the subsequent year. In the present instance, however, there remained a sum of 155,000*l.* out of the actual surplus of the consolidated fund on the 5th of January, 1792, after making good the whole sum granted for the service of the year 1791, which had not been estimated to be completed till the quarter ending the 5th of April, 1792. The increase of the revenue having defrayed the whole charge, and furnished this actual surplus, as early as on the 5th of January last, and the 5th of April next, will yield a further surplus (after paying the interest of the debt, and other fixed charges) which, instead of being applied, as was estimated, to the service of the year 1791, will be applicable to the supply of the present year; and to this is to be added the growing produce of the consolidated fund for the succeeding twelve months, from the 5th of April, 1792, to the 5th of April, 1793.

The expected amount of the disposable surplus on the 5th of April next, I state at 486,000*l.*; and in forming this calculation, I suppose the whole produce of the permanent taxes, during the current quarter, to be equal to the average formed from the corresponding quarters in each of the last four years, which amounts to 2,970,000*l.* To this is to be added the expected produce, during this quarter, of the temporary taxes appropriated to defray the expense of the Spanish armament, because, up to the 5th of April, those taxes are directed to be carried to the consolidated fund, and the proportion of the expense of the Spanish armament, which was charged on the supply of 1792, has been already defrayed out of the produce of the revenue up to the 5th of January. Supposing these taxes to yield in this quarter a sum equal to their average produce in the three quarters since they have taken effect, their amount will be nearly 200,000*l.* and this, added to the sum before stated, will make a total of 3,170,000*l.* From this is to be deducted the amount of the interest of debt, and other fixed charges on the consolidated fund for this quarter, which is about 2,684,000*l.* leaving a remainder of 486,000*l.*

The further amount of the sum, which may be expected to arise from the surplus of consolidated fund between the 5th of April, 1792, and the 5th of April, 1793, I propose to estimate in like manner on the average of the four last years, making the necessary deduction on account of the taxes which I shall on this day propose to you to repeal.

The total amount of the revenue on that average, exclusive of land and malt, was 13,654,000*l.* The annual amount of the taxes proposed to be repealed is about 223,000*l.*; but as some arrears will be received from these taxes subsequent to their repeal, the sum to be deducted on this account in the present year, will not be to that amount, and may be estimated at about 163,000*l.* The total amount of the interest of debt and other fixed charges on the consolidated fund is (as I have already stated)

11,391,000*l.* There will, therefore, on these suppositions, remain a disposable surplus of 2,100,000*l.* to which is to be added a sum of 200,000*l.* which there is good ground to suppose will be repaid to the publick during this year from the balances of different accounts. These articles of ways and means added together amount to 5,691,000*l.* The articles of supply which I have enumerated, amount in the whole to 5,654,000*l.* so that the ways and means exceed this supply by 37,000*l.*

I have already observed that, in the supply of the present year, there are some articles included, which exceed considerably the estimate of the permanent annual expenditure in the several branches of the publick service. These consist principally of the additional sum of 400,000*l.* proposed to be issued to the commissioners; the sum of 100 000*l.* granted in lieu of the malt duty; the sum granted for the navy debt; that repaid to the bank; the advance on account of the troops in India, and some excesses in the army estimate; in the unprovided estimate of the ordnance; in the miscellaneous services and the deficiency of grants; and they all appear peculiar to the present year, and not likely to recur in future, except as far as an annual addition may hereafter be made to the sums issued for the reduction of the national debt.

In speaking, however, of the future expenditure, I am aware that contingencies may occasionally arise, which cannot at present be foreseen; but, as far as I have now the means of judging, I am not aware of any specifick article in which there is likely to be an excess beyond the permanent estimate, except in the amount of the small sums which may be still necessary for completing the works for the protection of the dock yards at home, and the expense of carrying into execution the plan of fortifications in the West Indies, which will be a subject of separate consideration. And with a view to these articles, or to other contingencies that may arise, I have the satisfaction of thinking, that they will probably be fully balanced

by extraordinary resources, beyond the calculated amount of the present income. On the result, then, of these different statements, I think there is no reason to doubt, that we may, in the present year, apply an additional sum of 400,000*l.* to the reduction of the national debt, and repeal the temporary duty on malt, at the same time allowing for the repeal of permanent taxes to the amount of about 200,000*l.* and for the application of nearly an equal annual sum in future, as a permanent addition to the fund for the discharge of the national debt.

The next point for consideration is the propriety of the general principle which I have assumed as the foundation of my plan; that of distributing the surplus of our revenue, and applying it in equal proportions to the diminution of taxes, and the reduction of debt. I have thought this the wisest plan which we can adopt, because, by combining present relief with permanent credit and security, it seems most likely to prevent any temptation hereafter to break in, with a rude hand, on the system for the gradual reduction of our debt. At the same time, this addition to the sinking fund, with the aid of a further sum from a distant source, which I shall mention presently, and, independent of any further increase of revenue, will enable us to make a rapid progress in this important work, and in a very short space of time to reach a point, which perhaps not long since was thought too distant for calculation.

I shall beg the indulgence of the committee while I state this rather more at large, because it is connected with other considerations which may lead to important measures for enforcing and strengthening our system for the discharge of the national debt. In attempting to form any calculations of the proportion of debt which may be discharged at any particular time, there are some contingencies which can only be stated hypothetically. They may, however, now be reduced to a narrower point than they have been in any former period. One material circumstance which has necessarily been considered as uncertain, is the

price of the funds: but, as far as relates to the three per cents, this uncertainty seems to be in a great measure removed, with a view to the question under consideration: for, supposing the present state of prosperity to continue, no calculation can reasonably be formed on the idea of paying off any large portion of this stock but at par. Under such circumstances, the principal question would be, whether the fund for the reduction of debt ought to be applied to the redemption or purchase of the 3 per cents, with a view to the reduction of interest on the 4 per cents, and on the 5 per cents? or, whether it should be applied to the redemption, first, of the 4 per cents, and afterwards (as soon as they become redeemable) of the 5 per cents? Without entering into minute disquisitions on this point, I will only state, that, according to the most accurate calculations which I have seen, the mode of applying the sinking fund to the purchase of the 3 per cents, and making use of the general improvement of credit in order to reduce the interest of the 4 per cents, and of the 5 per cents (when redeemable,) and to carry the saving of interest as an addition to the sinking fund, will on the whole be quicker in its operation than the other mode, though not in any very considerable degree. I shall therefore suppose, in the first instance, that an addition of 400,000*l.* should be applied in the present year to the reduction of the debt, and an annual addition, from the revenue for the next four years, of 200,000*l.* When the debentures to the American loyalists shall be discharged, (which will be in about four years subsequent to the present) the profits arising from the lottery, which, as I have already stated, are now set against this article of expenditure, will be left free, and will form an addition to the annual surplus. If the addition shall be distributed in the same manner as is now proposed, with respect to the present surplus, and if the tickets should continue to bear their present price, a further annual sum of 150,000*l.* (after allowing for the repeal of taxes to the same amount) will be applicable to the reduction of debt. Previous to this period, the 4

per cents may naturally be supposed to have been reduced in the first instance to 3 1-2, and ultimately to 3 per cent; and the saving by this reduction of interest will amount at first to about 160,000*l.* and when completed, to about 320,000*l.* By the operation of the present sinking fund, and of these additions to the redemption of the 3 per cents at par, it may be expected that 25 millions of 3 per cents will have been paid off in the year 1800, after which the 5 per cents become redeemable; and supposing the 3 per cents to continue at par, a further saving may then in a short time be made, by converting the 5 per cents to 3 per cents, which will amount in the whole to above 360,000*l.* and which I likewise suppose to be carried to the aid of the present sinking fund. The material question, which on these suppositions it is natural to ask, is, When will the sinking fund arise to the amount of 4 millions per annum, which is the limit after which, according to the act of 1786, it is no longer to accumulate, but the interest of the capital which it thenceforth may redeem, is to be left open for the disposition of parliament? It will amount to that sum, on the suppositions which I have stated, in 1808, a period of about fifteen years from the present time.

I am not, indeed, presumptuous enough to suppose, that when I name fifteen years, I am not naming a period in which events may arise, which human foresight cannot reach, and which may baffle all our conjectures. We must not count with certainty on a continuance of our present prosperity during such an interval; but unquestionably there never was a time in the history of this country, when, from the situation of Europe, we might more reasonably expect fifteen years of peace, than we may at the present moment. But in looking forward to this very period there arises one of the considerations to which I have referred, and which may lead us still to amend and enforce our system for the reduction of the publick debt.

When the sum of four millions was originally fixed as the limit for the sinking fund, it was not in contemplation to issue more annually from the surplus revenue than one million; consequently the fund would not rise to four millions till a proportion of debt was paid off, the interest of which, together with the annuities which might fall in in the interval, should amount to three millions.

But as, on the present supposition, additional sums beyond the original million are to be annually issued from the revenue, and applied to the aid of the sinking fund, the consequence would be that, if that fund (with these additions carried to it) were still to be limited to four millions, it would reach that amount, and cease to accumulate, before as great a portion of the debt is reduced as was originally in contemplation. This effect would be more considerable, if, instead of an annual addition of 350,000*l.* in the whole, which is the amount on which I have calculated, the further increase of the revenue should admit (as it probably may) of the application of a larger surplus; and in either of these cases, although the ultimate amount of the sinking fund would be equal to what was originally intended, and it would reach that point sooner, yet it would bear a less proportion to the capital of the debt which it would afterwards have to discharge, than it would have done according to the original plan. In order to avoid this consequence, which would, as far as it went, be a relaxation in our system, I should propose, that whatever may be the additional annual sums applied to the reduction of debt, the fund should not cease to accumulate till the interest of the capital discharged, and the amount of expired annuities should, together with the annual million only, and exclusive of any additional sums, amount to four millions.

But I confess, that, in the present situation of the country, I am inclined to think that we ought not to stop here. What we did in 1786 was, perhaps, as much as could be attempted under the circumstances of that time. At present we ought not to confine our views to the operation of the sinking fund, compared

with the debt now existing. If our system stops there, the country will remain exposed to the possibility of being again involved in those embarrassments, which we have, in our own time, severely experienced, and which, apparently, brought us almost to the verge of bankruptcy and ruin. We ought therefore to look forward, in order to provide a permanent remedy against the danger of fresh accumulation of debt in consequence of future contingencies. And this, as I shall explain more particularly on some future occasion, may, I am persuaded, be effected without the danger of any inconvenience or embarrassment, which can counterbalance the magnitude of the object.

The measure which I have in view, is to enact, that whenever any loan should take place in future, unless raised by annuities which would terminate in a moderate number of years, there should of course be issued out of the consolidated fund, to the commissioners for the reduction of the national debt, an additional annual sum, sufficient to discharge the capital of such loan, in the same period as the sinking fund, after reaching its largest amount, will discharge what would then remain of the present debt. The committee will recollect, that the idea which I am now stating is not new to my mind, though I have never before proposed it as a permanent regulation. Two years from this time, when I had the mortification of thinking that the country might be engaged in an expensive war in consequence of our discussions with the court of Spain, I gave notice that I should propose to follow, very nearly, this system, with respect to any loans which might then be necessary. I will not, however, enlarge further on this subject at present. I have already stated enough to show that the system which I wish to propose is calculated to provide effectually for the discharge of the publick debt, at the same time that it diminishes the burthens of the people; and that, in consulting our own immediate ease, we cannot be accused of sacrificing the permanent interests of posterity.

Supposing therefore, that the distribution which I have suggested should appear to the house fit to be adopted, and that taxes to the amount of 200,000*l.* per annum should now be taken off, I will beg leave next, for the purpose of bringing the whole subject under consideration, to state the particular taxes, which, if nothing preferable is suggested by others, I should propose to repeal. And, in making this selection, there are two objects which I wish principally to keep in view. The first, to which it is very material to attend, is, that the actual relief felt by the publick should be proportioned to the amount of revenue which is relinquished. Under these descriptions those taxes seem most clearly to be included, which are raised by the mode of assessment, because as they are paid directly out of the pocket of the individual, and do not pass through circuitous channels, like taxes upon the articles of consumption, where the tax is often blended with the price of the commodity, there can be little doubt that the relief intended to be given will in these instances be effectual to its fullest extent. The other object which I naturally have in view is, that the relief intended should apply peculiarly to that class to whom, on every account, it ought first to be extended. I mean the most necessitous, and the most industrious part of the community.

Combining these objects, the first article to which I have directed my attention is, the temporary duty on malt, imposed in the last session.

The three next taxes which I shall state, are permanent taxes, which fall under the description of being raised by assessment, and which have also the further advantage of extending relief widely, and where we must most wish it to be extended.—The first is the tax upon female servants, which is certainly paid by the poorer class of house-keepers, and which is charged upon about 90,000 different families—the amount is 31,000*l.* The next is, the tax upon carts and wagons, which applies to the whole of the yeomanry of the country, to all those who are occupied in agriculture, who pay in this shape a sum not indeed

very considerable, but which perhaps is felt, from the inconvenience and trouble which it occasions, more than from the burthen itself. About 90,000 persons are affected by this tax also, of which the amount is nearly £0,000*l*. The third tax applies to the poorest of all the orders of the community. I mean the tax on houses having less than seven windows, which are exempted from the payment of any other tax, but that of three shillings. The amount of the sum is small, but to those who are the objects of it, its repeal will be a substantial relief and comfort, and it will at least be a pledge and earnest of the attention of parliament to their interests. It extends, I believe, to between three and four hundred thousand houses, and its amount is about 56,000*l*.

The next and last which I have to mention is the last additional tax of a halfpenny per pound on the article of candles, which presses more, perhaps, than any other tax on consumption, upon the class of whom I have been speaking; and if this tax is repealed from a given day, and the duty upon the stock in hand is allowed to all the manufacturers and dealers in that article, I believe there can be no question that the reduction of the price will be in proportion to the duty repealed. Its amount is about 106,000*l*.; and the total of all these taxes is 223,000*l*.

I have now explained the several measures which I shall this day propose to the committee; but I should think that I left the subject imperfectly discussed, if I did not proceed to lay before you such considerations as may enable you to judge how far there is a reasonable prospect that the fortunate situation which I have described may be permanent. And in order to do this, I wish again to call your attention to the progressive increase of the revenue, and to state within what periods it has taken place.

If we compare the revenue of last year with that of the year 1786, we shall find an excess in the last year of 2,300,000*l*. If we go back to the year 1783, which is the first year of peace, we shall find the increase since that period, including the produce of the addi-

tional permanent taxes which have been imposed in the interval, to be little less than four millions. We shall, I believe, also find, that, with the exception of the year 1786, in which the suspense of trade, occasioned by the negotiation for the commercial treaty with France, naturally affected the revenue, there is hardly any one year in which the increase has not been continual.

In examining the branches of revenue, we shall find that rather more than one million has arisen from the imposition of new taxes; about one million more in those articles in which particular and separate regulations have been made for the prevention of fraud; and that the remaining sum of two millions appears to be diffused over the articles of general consumption, and must therefore be attributed to the best of all causes—a general increase in the wealth and prosperity of the country.

If we look more minutely into the particular articles on which the revenue arises, we shall still find no ground to imagine, that any considerable part of it is temporary or accidental, but shall have additional reason to ascribe it to the cause which I have just now stated. In the revenue of the customs there is no material article where an increase might be supposed to proceed from the accident of seasons, but that of sugar, and it appears that, upon the average of the four years on which I have formed my calculation, that article has not produced beyond its usual amount. Many of the articles under the head of customs, in which the augmentation is not apparent, consist of raw materials, the increasing importation of which is, at once, a symptom and a cause of the increasing wealth of the country. This observation will apply, in some degree, even to the raw material of a manufacture which has generally been supposed to be on the decline. I mean that of silk. In the article of wool, the increase has been gradual and considerable. The quantity of bar iron imported from abroad is also increased, though we all know how considerably our own iron works have been extended during the period

to which I have referred. There is hardly any considerable article in which there is any decrease, except that of hemp in the last year, which is probably accidental, and that of linen, the importation of which from abroad may be diminished by accidental causes, or perhaps in consequence of the rapid increase of the manufacture of that article at home.

On looking at the articles composing the revenues of excise, the same observations will arise in a manner still more striking. There is, indeed, one branch of that revenue, the increase of which may in part be attributed to the accident of seasons. I mean that which arises from the different articles of which malt is an ingredient; but I am inclined to believe that this increase cannot be wholly ascribed to that cause, because, during all the four years, the amount of the duty upon beer and ale has uniformly been progressive. In the great articles of consumption which I will shortly enumerate, without dwelling on particulars—in home made and foreign spirits, wine, soap, tobacco, the increase has been considerable and uniform. In the articles of bricks and tiles, starch, paper, and printed goods, there has also on the whole been a considerable increase, although there has been some fluctuation in different years. Almost every branch of revenue would furnish instances of a similar nature. The revenue raised by stamps has increased in the produce of the old duties, while at the same time new duties have been added to a large amount, and the augmentation is on this head, on the whole, near 400,000*l.* a sum which is raised in such a manner as to be attended with little inconvenience to those who pay it. The amount of the duty upon salt during the same period has been progressive. The revenue of the post office is another article, comparatively small, but which furnishes a strong indication of the internal state of the country. No additional duty has been imposed since the year 1784. In 1785, it yielded 238,000*l.* and in the last year 338,000*l.* I mention all these circumstances as tending to throw additional light on the

subject, and serving to illustrate and confirm the general conclusion to which they all uniformly tend.

If from this examination of the different branches of the revenue, we proceed to a more direct inquiry into the sources of our prosperity, we shall trace them in a corresponding increase of manufacture and commerce.

The accounts formed from the documents of the custom house are not indeed to be relied upon as showing accurately the value of our imports and exports in any one-year, but they furnish some standard of comparison between different periods, and in that view I will state them to the committee.

In the year 1782, the last year of the war, the imports, according to the valuation at the custom house, amounted to 9,714,000*l.*; they have gradually increased in each successive year, and amounted, in the year 1790, to 19,130,000*l.*

The export of British manufactures forms a still more important and decisive criterion of commercial prosperity. The amount in 1782 was stated at 9,919,000*l.*; in the following year, it was 10,409,000*l.*; in the year 1790, it had risen to 14,921,000*l.*; and in the last year (for which the account is just completed as far as relates to the British manufactures,) it was 16,420,000*l.* If we include in the account the foreign articles re-exported, the total of the export in 1782 was 12,259,000*l.* After the peace it rose, in 1783, to 14,741,000*l.*; and in the year 1790, it was 20,120,000*l.* These documents, as far as they go, (and they are necessarily imperfect) serve only to give a view of the foreign trade of the country. It is more than probable, that our internal trade, which contributes still more to our wealth, has been increasing in at least an equal proportion. I have not the means of stating with accuracy a comparative view of our manufactures during the same period; but their rapid progress has been the subject of general observation, and the local knowledge of gentlemen from different parts of the country, before whom

I am speaking, must render any detail on this point unnecessary.

Having gone thus far, having stated the increase of revenue, and shown that it has been accompanied by a proportionate increase of the national wealth, commerce, and manufactures, I feel that it is natural to ask, What have been the peculiar circumstances to which these effects are to be ascribed?

The first and most obvious answer, which every man's mind will suggest to this question, is, that it arises from the natural industry and energy of the country: but what is it which has enabled that industry and energy to act with such peculiar vigour, and so far beyond the example of former periods? The improvement which has been made in the mode of carrying on almost every branch of manufacture, and the degree to which labour has been abridged, by the invention and application of machinery, have undoubtedly had a considerable share in producing such important effects. We have besides seen, during these periods, more than at any former time, the effect of one circumstance which has principally tended to raise this country to its mercantile preeminence. I mean that peculiar degree of credit which, by a twofold operation, at once gives additional facility and extent to the transactions of our merchants at home, and enables them to obtain a proportional superiority in markets abroad. This advantage has been most conspicuous during the latter part of the period to which I have referred; and it is constantly increasing, in proportion to the prosperity which it contributes to create.

In addition to all this, the exploring and enterprising spirit of our merchants has been seen in the extension of our navigation and our fisheries, and the acquisition of new markets in different parts of the world; and undoubtedly those efforts have been not a little assisted by the additional intercourse with France, in consequence of the commercial treaty; an intercourse which, though probably checked and abated by the distractions now prevailing in that king-

dom, has furnished a great additional incitement to industry and exertion.

But there is still another cause, even more satisfactory than these, because it is of a still more extensive and permanent nature; that constant accumulation of capital, that continual tendency to increase, the operation of which is universally seen in a greater or less proportion, whenever it is not obstructed by some public calamity, or by some mistaken and mischievous policy, but which must be conspicuous and rapid indeed in any country which has once arrived at an advanced state of commercial prosperity. Simple and obvious as this principle is, and felt and observed as it must have been in a greater or less degree, even from the earliest periods, I doubt whether it has ever been fully developed and sufficiently explained, but in the writings of an author of our own times, now unfortunately no more, (I mean the author of a celebrated treatise on the Wealth of Nations) whose extensive knowledge of detail, and depth of philosophical research, will, I believe, furnish the best solution to every question connected with the history of commerce, or with the systems of political economy. This accumulation of capital arises from the continual application, of a part at least, of the profit obtained in each year, to increase the total amount of capital to be employed in a similar manner, and with continued profit in the year following. The great mass of the property of the nation is thus constantly increasing at compound interest; the progress of which, in any considerable period, is what at first view would appear incredible. Great as have been the effects of this cause already, they must be greater in future; for its powers are augmented in proportion as they are exerted. It acts with a velocity continually accelerated, with a force continually increased.

Mobilitate viget, viresque acquirit eundo.

It may indeed, as we have ourselves experienced, be checked or retarded by particular circumstances. It may for a time be interrupted, or even overpowered; but, where there is a fund of productive labour

and active industry, it can never be totally extinguished. In the season of the severest calamity and distress, its operations will still counteract and diminish their effects. In the first returning interval of prosperity, it will be active to repair them. If we look to a period like the present, of continued tranquillity, the difficulty will be to imagine limits to its operation. None can be found, while there exists at home any one object of skill or industry short of its utmost possible perfection; one spot of ground in the country capable of higher cultivation and improvement; or while there remains abroad any new market that can be explored, or any existing market that can be extended. From the intercourse of commerce, it will in some measure participate in the growth of other nations, in all the possible varieties of their situations. The rude wants of countries emerging from barbarism, and the artificial and increasing demands of luxury and refinement, will equally open new sources of treasure, and new fields of exertion, in every state of society, and in the remotest quarters of the globe. It is this principle which, I believe, according to the uniform result of history and experience, maintains on the whole, in spite of the vicissitudes of fortune, and the disasters of empires, a continued course of successive improvement in the general order of the world.

Such are the circumstances which appear to me to have contributed most immediately to our present prosperity. But these again are connected with others yet more important.

They are obviously and necessarily connected with the duration of peace, the continuance of which, on a secure and permanent footing, must ever be the first object of the foreign policy of this country. They are connected still more with its internal tranquillity and with the natural effects of a free but well regulated government.

What is it which has produced, in the last hundred years, so rapid an advance, beyond what can be traced in any other period of our history? What

but that, during that time, under the mild and just government of the illustrious princes of the family now on the throne, a general calm has prevailed through the country, beyond what was ever before experienced; and we have also enjoyed, in greater purity and perfection, the benefit of those original principles of our constitution, which were ascertained and established by the memorable events that closed the century preceding? This is the great and governing cause, the operation of which has given scope to all the other circumstances which I have enumerated.

It is this union of liberty with law, which, by raising a barrier equally firm against the encroachments of power, and the violence of popular commotion, affords to property its just security, produces the exertion of genius and labour, the extent and solidity of credit, the circulation and increase of capital; which forms and upholds the national character, and sets in motion all the springs which actuate the great mass of the community through all its various descriptions.

The laborious industry of those useful and extensive classes (who will, I trust, be in a peculiar degree this day the object of the consideration of the house) the peasantry and yeomanry of the country; the skill and ingenuity of the artificer; the experiments and improvements of the wealthy proprietor of land; the bold speculations and successful adventures of the opulent merchant and enterprising manufacturer; these are all to be traced to the same source, and all derive from hence both their encouragement and their reward. On this point, therefore, let us principally fix our attention, let us preserve this first and most essential object, and every other is in our power! Let us remember, that the love of the constitution, though it acts as a sort of natural instinct in the hearts of Englishmen, is strengthened by reason and reflection, and every day confirmed by experience; that it is a constitution which we do not merely admire, from traditional reverence, which we do not flatter

rom prejudice or habit, but which we cherish and value because we know that it practically secures the tranquillity and welfare both of individuals and of the publick, and provides, beyond any other frame of government which has ever existed, for the real and useful ends which form at once the only true foundation and only rational object of all political societies.

I have now nearly closed all the considerations which I think it necessary to offer to the committee. I have endeavoured to give a distinct view of the surplus arising on the comparison of the permanent income (computed on the average which I have stated) with what may be expected to be the permanent expenditure in time of peace, and I have also stated the comparison of the supply, and of the ways and means of this particular year. I have pointed out the leading and principal articles of revenue in which the augmentation has taken place, and the corresponding increase in the trade and manufactures of the country; and finally, I have attempted to trace these effects to their causes, and to explain the principles which appear to account for the striking and favourable change in our general situation. From the result of the whole, I trust I am entitled to conclude, that the scene which we are now contemplating is not the transient effect of accident, not the short-lived prosperity of a day, but the genuine and natural result of regular and permanent causes. The season of our severe trial is at an end, and we are at length relieved, not only from the dejection and gloom which, a few years since, hung over the country, but from the doubt and uncertainty which, even for a considerable time after our prospect had begun to brighten, still mingled with the hopes and expectations of the publick. We may yet indeed be subject to those fluctuations which abound in the affairs of a great nation, and which it is impossible to calculate or foresee; but as far as there can be any reliance on human speculations, we have the best ground, from the experience of the past, to look with satisfaction to the present, and with confidence to the future. “*Nunc*

demum redit animus, cum non spem modo ac votum securitas publica, sed ipsius voti fiduciam et robur assumpserit." This is a state not of hope only, but of attainment; not barely the encouraging prospect of future advantage, but the solid and immediate benefit of present and actual possession.

On this situation and this prospect, fortunate beyond our most sanguine expectations, let me congratulate you, and the house, and my country! And before I conclude, let me express my earnest wish, my anxious and fervent prayer, that now in this period of our success, for the sake of the present age and of posterity, there may be no intermission in that vigilant attention of parliament to every object connected with the revenue, the resources, and the credit of the state, which has carried us through all our difficulties, and led to this rapid and wonderful improvement;—that, still keeping pace with the exertions of the legislature, the genius and spirit, the loyalty and publick virtue of a great and free people, may long deserve, and under the favour of Providence, may ensure the continuance of this unexampled prosperity; and that Great Britain may thus remain for ages in the possession of these distinguished advantages, under the protection and safeguard of that constitution, to which (as we have been truly told from the throne) they are principally to be ascribed, and which is indeed the great source, and the best security of all that can be dear, and valuable to a nation!

MR. BURKE'S SPEECH

AT BRISTOL, PREVIOUS TO THE ELECTION IN THE
YEAR 1780.

THIS speech, Mr. Burke delivered! on the hustings of the city of Bristol, at the election of 1780, in vindication of his parliamentary conduct, which he found on coming among them to be condemned by so large a proportion of his constituents as materially to affect his popularity.

He was charged particularly with having voted for the grant of increased privileges to the Irish trade contrary to their positive instructions, and under the conviction that the measure would be highly injurious to the commerce of Bristol.

In his defence he is manly, independent, and spirited. Confident of the rectitude of the principles which had governed his conduct, he no where descends to appease the murmurings of discontent, by holding out the winking taper of paltry excuses. "No," he exclaims, "*I did not obey your instructions.* I conformed to the instructions of truth and nature, and maintained your interest, against your opinions, with the constancy that became me. A representative worthy of you, ought to be a person of stability. I am to look, indeed, to your opinions; but to such opinions as you and I must have five years hence. I

was not to look at the flash of the day. I knew that you chose me in my place, along with others *to be a pillar of the state, and not a weathercock on the top of the edifice, exalted for my levity and versatility; and of no use but to indicate the shiftings of every fashionable gale.*"

This eloquent address, however, was ineffectual. On the second day of the election he declined the contest.

SPEECH, &c.

MR. MAYOR, AND GENTLEMEN,

I AM extremely pleased at the appearance of this large and respectable meeting. The steps I may be obliged to take will want the sanction of a considerable authority; and in explaining any thing which may appear doubtful in my publick conduct, I must naturally desire a very full audience.

I have been backward to begin my canvass.—The dissolution of the parliament was uncertain; and it did not become me, by an unseasonable importunity, to appear diffident of the fact of my six years endeavours to please you. I had served the city of Bristol honourably; and the city of Bristol had no reason to think, that the means of honourable service to the publick, were become indifferent to me.

I found on my arrival here, that three gentlemen had been long in eager pursuit of an object which but two of us can obtain. I found, that they had all met with encouragement. A contested election in such a city as this, is no light thing. I paused on the brink of the precipice. These three gentlemen, by various merits, and on various titles, I made no doubt, were worthy of your favour. I shall never attempt to raise myself by depreciating the merits of my competitors. In the complexity and confusion of these cross pursuits, I wished to take the authentick publick sense of my friends upon a business of so much delicacy. I wished to take your opinion along with me; that if I should give up the contest at the very

beginning, my surrender of my post may not seem the effect of inconstancy, or timidity, or anger, or disgust, or indolence, or any other temper unbecoming a man who has engaged in the publick service. If, on the contrary, I should undertake the election, and fail of success, I was full as anxious that it should be manifest to the whole world, that the peace of the city had not been broken by my rashness, presumption, or fond conceit of my own merit.

I am not come, by a false and counterfeit show of deference to your judgment, to seduce it in my favour. I ask it seriously and unaffectedly. If you wish that I should retire, I shall not consider that advice as a censure upon my conduct, or an alteration in your sentiments; but as a rational submission to the circumstances of affairs. If, on the contrary, you should think it proper for me to proceed on my canvass, if you will risk the trouble on your part, I will risk it on mine. My pretensions are such as you cannot be ashamed of, whether they succeed or fail.

If you call upon me, I shall solicit the favour of the city upon manly ground. I come before you with the plain confidence of an honest servant in the equity, of a candid and discerning master. I come to claim your approbation, not to amuse you with vain apologies, or with professions still more vain and senseless. I have lived too long to be served by apologies, or to stand in need of them. The part I have acted has been in open day; and to hold out to a conduct, which stands in that clear and steady light for all its good and all its evil, to hold out to that conduct the paltry winking tapers of excuses and promises—I never will do it. They may obscure it with their smoke; but they never can illumine sunshine by such a flame as theirs.

I am sensible that no endeavours have been left untried to injure me in your opinion. But the use of character is to be a shield against calumny. I could wish, undoubtedly (if idle wishes were not the most idle of all things) to make every part of my conduct agreeable to every one of my constituents. But in

so great a city, and so greatly divided as this, it is weak to expect it.

In such a discordancy of sentiments, it is better to look to the nature of things than to the humours of men. The very attempt towards pleasing every body, discovers a temper always flashy, and often false and insincere. Therefore, as I have proceeded straight onward in my conduct, so I will proceed in my account of those parts of it which have been most excepted to. But I must first beg leave just to hint to you, that we may suffer very great detriment by being open to every talker. It is not to be imagined how much of service is lost from spirits full of activity, and full of energy, who are pressing, who are rushing forward, to great and capital objects, when you oblige them to be continually looking back. Whilst they are defending one service, they defraud you of a hundred. Applaud us when we run; console us when we fall; cheer us when we recover; but let us pass on—for God's sake, let us pass on.

Do you think, gentlemen, that every publick act in the six years since I stood in this place before you—that all the arduous things which have been done in this eventful period, which has crowded into a few years space the revolutions of an age, can be opened to you on their fair grounds in half an hour's conversation?

But it is no reason, because there is a bad mode of inquiry, that there should be no examination at all. Most certainly it is our duty to examine; it is our interest too.—But it must be with discretion; with an attention to all the circumstances, and to all the motives; like sound judges, and not like caviling pettyfoggers and quibbling pleaders, prying into flaws and hunting for exceptions. Look, gentlemen, to the *whole tenour* of your member's conduct. Try whether his ambition or his avarice have justled him out of the straight line of duty; or whether that grand foe of the offices of active life, that master-vice in men of business, a degenerate and inglorious sloth, has made him flag, and languish in his course.

This is the object of our inquiry. If our member's conduct can bear this touch, mark it for sterling. He may have fallen into errors; he must have faults; but our error is greater, and our fault is radically ruinous to ourselves, if we do not bear, if we do not even applaud, the whole compound and mixed mass of such a character. Not to act thus is folly; I had almost said it is impiety. He censures God, who quarrels with the imperfections of man.

Gentlemen, we must not be peevish with those who serve the people. For none will serve us whilst there is a court to serve, but those who are of a nice and jealous honour. They who think every thing, in comparison of that honour, to be dust and ashes, will not bear to have it soiled and impaired by those for whose sake they make a thousand sacrifices to preserve it immaculate and whole. We shall either drive such men from the publick stage, or we shall send them to the court for protection: where, if they must sacrifice their reputation, they will at least secure their interest. Depend upon it, that the lovers of freedom will be free. None will violate their conscience to please us, in order afterwards to discharge that conscience, which they have violated, by doing us faithful and affectionate service. If we degrade and deprave their minds by servility, it will be absurd to expect, that they who are creeping and abject towards us, will ever be bold and incorruptible assertors of our freedom, against the most seducing and the most formidable of all powers. No. Human nature is not so formed: nor shall we improve the faculties or better the morals of publick men, by our possession of the most infallible receipt in the world for making cheats and hypocrites.

Let me say with plainness, I who am no longer in a publick character, that if by a fair, by an indulgent, by a gentlemanly behaviour to our representatives, we do not give confidence to their minds, and a liberal scope to their understandings; if we do not permit our members to act upon a *very* enlarged view of things; we shall at length infallibly degrade our na-

tional representation into a confused and scuffling bustle of local agency. When the popular member is narrowed in his ideas, and rendered timid in his proceedings, the service of the crown will be the sole nursery of statesmen. Among the frolicks of the court, it may at length take that of attending to its business. Then the monopoly of mental power will be added to the power of all other kinds it possesses. On the side of the people there will be nothing but impotence: for ignorance is impotence; narrowness of mind is impotence; timidity is itself impotence, and makes all other qualities that go along with it, impotent and useless.

At present it is the plan of the court to make its servants insignificant. If the people should fall into the same humour, and should choose their servants on the same principles of mere obsequiousness, and flexibility, and total vacancy or indifference of opinion in all publick matters, then no part of the state will be sound; and it will be in vain to think of saving of it.

I thought it very expedient at this time to give you this candid counsel; and with this counsel I would willingly close, if the matters which at various times have been objected to me in this city concerned only myself, and my own election. These charges, I think, are four in number;—my neglect of a due attention to my constituents;—the not paying more frequent visits here;—my conduct on the affairs of the first Irish trade acts;—my opinion and mode of proceeding on lord Beauchamp's debtor's bills;—and my votes on the late affairs of the Roman Catholics. All of these (except perhaps the first) relate to matters of very considerable publick concern; and it is not lest you should censure me improperly, but lest you should form improper opinions on matters of some moment to you, that I trouble you at all upon the subject. My conduct is of small importance.

With regard to the first charge, my friends have spoken to me of it in the style of amicable expostulation; not so much blaming the thing, as lamenting

the effects.—Others, less partial to me, were less kind in assigning the motives. I admit, there is a decorum and propriety in a member of parliament's paying a respectful court to his constituents. If I were conscious to myself that pleasure or dissipation, or low unworthy occupations, had detained me from personal attendance on you, I would readily admit my fault, and quietly submit to the penalty. But, gentlemen, I live a hundred miles distance from Bristol; and at the end of a session I come to my own house, fatigued in body and in mind, to a little repose, and to a very little attention to my family and my private concerns. A visit to Bristol is always a sort of canvass; else it will do more harm than good. To pass from the toils of a session to the toils of a canvass, is the furthest thing in the world from repose. I could hardly serve you *as I have done*, and court you too. Most of you have heard, that I do not very remarkably spare myself in *publick* business; and in the *private* business of my constituents I have done very near as much as those who have nothing else to do. My canvass of you was not on the change, nor in the county meetings, nor in the clubs of this city. It was in the house of commons; it was at the custom house; it was at the council; it was at the treasury; it was at the admiralty. I canvassed you through your affairs, and not your persons. I was not only your representative as a body; I was the agent, the solicitor of individuals. I ran about wherever your affairs could call me; and in acting for you I often appeared rather as a ship-broker, than as a member of parliament. There was nothing too laborious, or too low for me to undertake. The meanness of the business was raised by the dignity of the object. If some lesser matters have slipped through my fingers, it was because I filled my hands too full; and in my eagerness to serve you, took in more than my hands could grasp. Several gentlemen stand round me who are my willing witnesses; and there are others who, if they were here, would be still better; because they would be unwilling witnesses to the same truth. It

was in the middle of a summer residence in London, and in the middle of a negotiation at the admiralty for your trade, that I was called to Bristol; and this late visit, at this late day, has been possibly in prejudice to your affairs.

Since I have touched upon this matter, let me say, gentlemen, that if I had a disposition, or a right to complain, I have some cause of complaint on my side. With a petition of this city in my hand, passed through the corporation without a dissenting voice, a petition in unison with almost the whole voice of the kingdom (with whose formal thanks I was covered over) while I laboured on no less than five bills for a publick reform, and fought against the opposition of great abilities, and of the greatest power, every clause, and every word of the largest of those bills, almost to the very last day of a very long session; all this time a canvass in Bristol was as calmly carried on as if I were dead. I was considered as a man wholly out of the question. Whilst I watched, and fasted, and sweated in the house of commons—by the most easy and ordinary arts of election, by dinners and visits, by “How do you dos,” and “My worthy friends,” I was to be quietly moved out of my seat—and promises were made, and engagements entered into, without any exception or reserve, as if my laborious zeal in my duty had been a regular abdication of my trust.

To open my whole heart to you on this subject, I do confess, however, that there were other times, besides the two years in which I did visit you, when I was not wholly without leisure for repeating that mark of my respect. But I could not bring my mind to see you. You remember, that in the beginning of this American war (that era of calamity, disgrace, and downfall, an era which no feeling mind will ever mention without a tear for England) you were greatly divided; and a very strong body, if not the strongest, opposed itself to the madness which every art and every power were employed to render popular, in order that the errors of the rulers might be lost in the

general blindness of the nation. This opposition continued until after our great, but most unfortunate victory at Long Island. Then all the mounds and banks of our constancy were born down at once ; and the phrensy of the American war broke in upon us like a deluge. This victory, which seemed to put an immediate end to all difficulties, perfected us in that spirit of domination, which our unparalleled prosperity had but too long nurtured. We had been so very powerful, and so very prosperous, that even the humblest of us were degraded into the vices and follies of kings. We lost all measure between means and ends ; and our headlong desires became our politicks and our morals. All men who wished for peace, or retained any sentiments of moderation, were overborn or silenced ; and this city was led by every artifice (and probably with the more management, because I was one of your members) to distinguish itself by its zeal for that fatal cause. In this temper of yours and of my mind, I should have sooner fled to the extremities of the earth, than have shown myself here. I, who saw in every American victory (for you have had a long series of these misfortunes) the germ and seed of the naval power of France and Spain, which all our heat and warmth against America was only hatching into life.—I should not have been a welcome visitant with the brow and the language of such feelings. When afterwards, the other face of your calamity was turned upon you, and showed itself in defeat and distress, I shunned you full as much. I felt sorely this variety in our wretchedness ; and I did not wish to have the least appearance of insulting you with that show of superiority, which, though it may not be assumed, is generally suspected in a time of calamity, from those whose previous warnings have been despised. I could not bear to show you a representative whose face did not reflect that of his constituents ; a face that could not joy in your joys, and sorrow in your sorrows. But time at length has made us all of one opinion ; and we have all opened our eyes on the true nature of the American war, to the true nature of all its successes and all its failures.

In that publick storm too I had my private feelings. I had seen blown down and prostrate on the ground several of those houses to whom I was chiefly indebted for the honour this city has done me. I confess, that whilst the wounds of those I loved were yet green, I could not bear to show myself in pride and triumph in that place into which their partiality had brought me, and to appear at feasts and rejoicings, in the midst of the grief and calamity of my warm friends, my zealous supporters, my generous benefactors. This is a true, unvarnished, undisguised state of the affair. You will judge of it.

This is the only one of the charges in which I am personally concerned. As to the other matters objected against me, which in their turn I shall mention to you, remember once more I do not mean to extenuate or excuse. Why should I, when the things charged are among those upon which I found all my reputation? What would be left to me, if I myself was the man, who softened, and blended, and diluted, and weakened, all the distinguishing colours of my life, so as to leave nothing distinct and determinate in my whole conduct?

It has been said, and it is the second charge, that in the questions of the Irish trade, I did not consult the interest of my constituents, or, to speak out strongly, that I rather acted as a native of Ireland, than as an English member of parliament.

I certainly have very warm good wishes for the place of my birth. But the sphere of my duties is my true country. It was, as a man attached to your interests, and zealous for the conservation of your power and dignity, that I acted on that occasion, and on all occasions. You were involved in the American war. A new world of policy was opened, to which it was necessary we should conform, whether we would or not; and my only thought was how to conform to our situation in such a manner as to unite to this kingdom, in prosperity and in affection, whatever remained of the empire. I was true to my old, standing, invariable principle, that all things which came from Great Bri-

tain, should issue as a gift of her bounty and beneficence, rather than as claims recovered against a struggling litigant ; or at least, that if your beneficence obtained no credit in your concessions, yet that they should appear the salutary provisions of your wisdom and foresight ; not as things wrung from you with your blood, by the cruel gripe of a rigid necessity. The first concessions, by being (much against my will) mangled and stripped of the parts which were necessary to make out their just correspondence and connexion in trade, were of no use. The next year a feeble attempt was made to bring the thing into better shape. This attempt (countenanced by the minister) on the very first appearance of some popular uneasiness, was, after a considerable progress through the house, thrown out by *him*.

What was the consequence ? The whole kingdom of Ireland was instantly in a flame. Threatened by foreigners, and, as they thought, insulted by England, they resolved at once to resist the power of France, and to cast off yours. As for us, we were able neither to protect nor to restrain them. Forty thousand men were raised and disciplined without commission from the crown. Two illegal armies were seen with banners displayed at the same time, and in the same country. No executive magistrate, no judicature, in Ireland, would acknowledge the legality of the army which bore the king's commission ; and no law, or appearance of law, authorized the army commissioned by itself. In this unexampled state of things, which the least error, the least trespass on the right or left, would have hurried down the precipice into an abyss of blood and confusion, the people of Ireland demand a freedom of trade with arms in their hands. They interdict all commerce between the two nations. They deny all new supply in the house of commons, although in time of war. They stint the trust of the old revenue, given for two years to all the king's predecessors, to six months. The British parliament, in a former session frightened into a limited concession by the menaces of Ireland, frightened out of it by the

menaces of England, was now frightened back again, and made a universal surrender of all that had been thought the peculiar, reserved, uncommunicable rights of England;—the exclusive commerce of America, of Africa, of the West Indies—all the enumerations of the acts of navigation—all the manufactures,—iron, glass, even the last pledge of jealousy and pride, the interest hid in the secret of our hearts, the inveterate prejudice moulded into the constitution of our frame, even the sacred fleece itself, all went together. No reserve; no exception; no debate; no discussion. A sudden light broke in upon us all. It broke in, not through well contrived and well disposed windows, but through flaws and breaches; through the yawning chasms of our ruin. We were taught wisdom by humiliation. No town in England presumed to have a prejudice, or dared to mutter a petition. What was worse, the whole parliament of England, which retained authority for nothing but surrenders, was despoiled of every shadow of its superintendence. It was, without any qualification, denied in theory, as it had been trampled upon in practice. This scene of shame and disgrace has, in a manner whilst I am speaking, ended by the perpetual establishment of a military power, in the dominions of this crown, without consent of the British legislature,* contrary to the policy of the constitution, contrary to the declaration of right: and by this your liberties are swept away along with your supreme authority—and both, linked together from the beginning, have, I am afraid, both together perished for ever.

What! gentlemen, was I not to foresee, or foreseeing was I not to endeavour to save you from all these multiplied mischiefs and disgraces? Would the little, silly, canvass prattle of obeying instructions, and having no opinions but yours, and such idle senseless tales, which amuse the vacant ears of unthinking men, have saved you from “the pelting of that pitiless storm,” to which the loose improvidence,

* Irish perpetual mutiny act.

the cowardly rashness of those who dare not look danger in the face, so as to provide against it in time; and therefore throw themselves headlong into the midst of it, have exposed this degraded nation, beat down and prostrate on the earth, unsheltered, unarmed, unresisting? Was I an Irishman on that day, that I boldly withstood our pride? or on the day that I hung down my head, and wept in shame and silence over the humiliation of Great Britain? I became unpopular in England for the one, and in Ireland for the other. What then? What obligation lay on me to be popular? I was bound to serve both kingdoms. To be pleased with my service, was their affair, not mine.

I was an Irishman in the Irish business, just as much as I was an American, when on the same principles, I wished you to concede to America, at a time when she prayed concession at our feet. Just as much was I an American, when I wished parliament to offer terms in victory, and not to wait the well chosen hour of defeat, for making good by weakness, and by supplication, a claim of prerogative, pre-eminence, and authority.

Instead of requiring it from me, as a point of duty, to kindle with your passions, had you all been as cool as I was, you would have been saved disgraces and distresses that are unutterable. Do you remember our commission? We sent out a solemn embassy across the Atlantick ocean, to lay the crown, the peerage, the commons of Great Britain, at the feet of the American congress. That our disgrace might want no sort of brightening and burnishing, observe who they were that composed this famous embassy. My lord Carlisle is among the first ranks of our nobility. He is the identical man who but two years before had been put forward, at the opening of a session in the house of lords, as the mover of a haughty and rigorous address against America. He was put in the front of the embassy of submission. Mr. Eden was taken from the office of lord Suffolk, to whom he was then under secretary of state; from the office of that lord Suffolk, who but a few weeks be-

fore, in his place in parliament, did not deign to inquire where a congress of vagrants was to be found. This lord Suffolk sent Mr. Eden to find these vagrants, without knowing where his king's generals were to be found, who were joined in the same commission of supplicating those whom they were sent to subdue. They enter the capital of America only to abandon it; and these assertors and representatives of the dignity of England, at the tail of a flying army, let fly their Parthian shafts of memorials and remonstrances at random behind them. Their promises and their offers, their flatteries and their menaces, were all despised; and we were saved the disgrace of their formal reception, only because the congress scorned to receive them; whilst the statehouse of independent Philadelphia opened her doors to the publick entry of the ambassadour of France. From war and blood we went to submission; and from submission plunged back again to war and blood; to desolate and be desolated, without measure, hope, or end. I am a royalist: I blushed for this degradation of the crown. I am a whig: I blushed for the dishonour of parliament. I am a true Englishman: I felt to the quick for the disgrace of England. I am a man: I felt for the melancholy reverse of human affairs, in the fall of the first power in the world.

To read what was approaching in Ireland, in the black and bloody characters of the American war, was a painful, but it was a necessary part of my publick duty. For, gentlemen, it is not your fond desires or mine that can alter the nature of things; by contending against which what have we got, or shall ever get, but defeat and shame? I did not obey your instructions! No. I conformed to the instructions of truth and nature, and maintained your interest, against your opinions with a constancy that became me. A representative worthy of you, ought to be a person of stability. I am to look, indeed, to your opinions; but to such opinions as you and I *must* have five years hence. I was not to look to the flash of the day. I knew that you chose me, in my

place, along with others, to be a pillar of the state, and not a weathercock on the top of the edifice, exalted for my levity and versatility, and of no use but to indicate the shiftings of every fashionable gale. Would to God, the value of my sentiments on Ireland and on America had been at this day a subject of doubt and discussion! No matter what my sufferings had been, so that this kingdom had kept the authority I wished it to maintain, by a grave foresight, and by an equitable temperance in the use of its power.

The next article of charge on my publick conduct, and that which I find rather the most prevalent of all, is lord Beauchamp's bill. I mean his bill of last session, for reforming the law-process concerning imprisonment. It is said, to aggravate the offence, that I treated the petition of this city with contempt even in presenting it to the house, and expressed myself in terms of marked disrespect. Had this latter part of the charge been true, no merits on the side of the question which I took, could possibly excuse me. But I am incapable of treating this city with disrespect. Very fortunately, at this minute (if my bad eyesight does not deceive me) the worthy* gentlemen deputed on this business stands directly before me. To him I appeal, whether I did not, though it militated with my oldest and my most recent publick opinions, deliver the petition with a strong and more than usual recommendation to the consideration of the house, on account of the character and consequence of those who signed it. I believe the worthy gentlemen will tell you, that the very day I received it, I applied to the solicitor, now the attorney general, to give it an immediate consideration; and he most obligingly and instantly consented to employ a great deal of his very valuable time to write an explanation of the bill. I attended the committee with all possible care and diligence, in order that every objection of yours might meet with

* Mr. Williams.

a solution; or produce an alteration. I entreated your learned recorder (always ready in business in which you take a concern) to attend. But what will you say to those who blame me for supporting lord Beauchamp's bill, as a disrespectful treatment of your petition, when you hear, that out of respect to you, I myself was the cause of the loss of that very bill? For the noble lord who brought it in, and who, I must say, has much merit for this and some other measures, at my request consented to put it off for a week, which the speaker's illness lengthened to a fortnight; and then the frantick tumult about popery drove that and every rational business from the house. So that if I chose to make a defence of myself, on the little principles of a culprit, pleading in his exculpation, I might not only secure my acquittal, but make merit with the opposers of the bill. But I shall do no such thing. The truth is, that I did occasion the loss of the bill, and by a delay caused by my respect to you. But such an event was never in my contemplation. And I am so far from taking credit for the defeat of that measure, that I cannot sufficiently lament my misfortune, if but one man, who ought to be at large, has passed a year in prison by my means. I am a debtor to the debtors. I confess judgment. I owe, what, if ever it be in my power, I shall most certainly pay—ample atonement, and usurious amends to liberty and humanity for my unhappy lapse. For, gentlemen, lord Beauchamp's bill was a law of justice and policy, as far as it went. I say as far as it went; for its fault was its being, in the remedial part, miserably defective.

There are two capital faults in our law with relation to civil debts. One is, that every man is presumed solvent. A presumption, in innumerable cases, directly against truth. Therefore the debtor is ordered, on a supposition of ability and fraud, to be coerced his liberty until he makes payment. By this means, in all cases of civil insolvency, without a pardon from his creditor, he is to be imprisoned for life:—and thus a miserable mistaken invention of

artificial science, operates to change a civil into a criminal judgment, and to scourge misfortune or indiscretion with a punishment which the law does not inflict on the greatest crimes.

The next fault is, that the inflicting of that punishment is not on the opinion of an equal and publick judge; but is referred to the arbitrary discretion of a private, nay interested, and irritated, individual. He, who formally is, and substantially ought to be, the judge, is in reality no more than ministerial, a mere executive instrument of a private man, who is at once judge and party. Every idea of judicial order is subverted by this procedure. If the insolvency be no crime, why is it punished with arbitrary imprisonment? If it be a crime, why is it delivered into private hands to pardon without discretion, or to punish without mercy and without measure?

To these faults, gross and cruel faults in our law, the excellent principle of lord Beauchamp's bill applied some sort of remedy. I know that credit must be preserved; but equity must be preserved too; and it is impossible, that any thing should be necessary to commerce, which is inconsistent with justice. The principle of credit was not weakened by that bill. God forbid! The enforcement of that credit was only put into the same publick judicial hands on which we depend for our lives, and all that makes life dear to us. But, indeed, this business was taken up too warmly both here and elsewhere. The bill was extremely mistaken. It was supposed to enact what it never enacted; and complaints were made of clauses in it as novelties, which existed before the noble lord that brought in the bill was born. There was a fallacy that run through the whole of the objections. The gentlemen who opposed the bill, always argued, as if the option lay between that bill and the ancient law. But this is a grand mistake. For practically, the option is between, not that bill and the old law, but between that bill and those occasional laws called acts of grace. For the operation of the old law is so savage, and so inconvenient to

society, that for a long time past, once in every parliament, and lately twice, the legislature has been obliged to make a general arbitrary jail delivery, and at once to set open, by its sovereign authority, all the prisons in England.

Gentlemen, I never relished acts of grace ; nor ever submitted to them but from despair of better. They are a dishonourable invention, by which, not from humanity, not from policy ; but merely because we have not room enough to hold these victims of the absurdity of our laws, we turn loose upon the publick three or four thousand naked wretches, corrupted by the habits, debased by the ignominy of a prison. If the creditor had a right to those carcasses as a natural security for his property, I am sure we have no right to deprive him of that security. But if the few pounds of flesh were not necessary to his security, we had not a right to detain the unfortunate debtor, without any benefit at all to the person who confined him. Take it as you will, we commit injustice. Now lord Beauchamp's bill intended to do deliberately, and with great caution and circumspection, upon each several case, and with all attention to the just claimant, what acts of grace do in a much greater measure, and with very little care, caution, or deliberation.

I suspect that here too, if we contrive to oppose this bill, we shall be found in a struggle against the nature of things. For as we grow enlightened, the publick will not bear, for any length of time, to pay for the maintenance of whole armies of prisoners, nor, at their own expense, submit to keep jails as a sort of garrisons, merely to fortify the absurd principle of making men judges in their own cause. For credit has little or no concern in this cruelty. I speak in a commercial assembly. You know that credit is given, because capital *must* be employed ; that men calculate the chances of insolvency ; and they either withhold the credit, or make the debtor pay the risk in the price. The counting house has no alliance with the jail. Holland understands trade as well as we, and she has done much more than this obnoxious bill in-

tended to do. There was not, when Mr. Howard visited Holland, more than one prisoner for debt in the great city of Rotterdam. Although lord Beauchamp's act (which was previous to this bill, and intended to feel the way for it) has already preserved liberty to thousands; and though it is not three years since the last act of grace passed, yet by Mr. Howard's last account, there were near three thousand again in jail. I cannot name this gentleman without remarking, that his labours and writings have done much to open the eyes and hearts of mankind. He has visited all Europe,—not to survey the sumptuousness of palaces, or the stateliness of temples; not to make accurate measurements of the remains of ancient grandeur, nor to form a scale of the curiosity of modern art; not to collect medals, or collate manuscripts:—but to dive into the depths of dungeons; to plunge into the infection of hospitals; to survey the mansions of sorrow and pain; to take the gage and dimensions of misery, depression, and contempt; to remember the forgotten, to attend to the neglected, to visit the forsaken, and to compare and collate the distresses of all men in all countries. His plan is original; and it is as full of genius as it is of humanity. It was a voyage of discovery; a circumnavigation of charity. Already the benefit of his labour is felt more or less in every country: I hope he will anticipate his final reward, by seeing all its effects fully realized in his own. He will receive, not by retail but in gross, the reward of those who visit the prisoner; and he has so forestalled and monopolized this branch of charity, that there will be, I trust, little room to merit by such acts of benevolence hereafter.

Nothing now remains to trouble you with, but the fourth charge against me—the business of the Roman Catholics. It is a business closely connected with the rest. They are all on one and the same principle. My little scheme of conduct, such as it is, is all arranged. I could do nothing but what I have done on this subject, without confounding the whole train of my ideas, and disturbing the whole order of my life.

Gentlemen, I ought to apologize to you, for seeming to think any thing at all necessary to be said upon this matter. The calumny is fitter to be scrawled with the midnight chalk of incendiaries, with "No popery," on walls and doors of devoted houses, than to be mentioned in any civilized company. I had heard, that the spirit of discontent on that subject was very prevalent here. With pleasure I find that I have been grossly misinformed. If it exists at all in this city, the laws have crushed its exertions, and our morals have shamed its appearance in day light. I have pursued this spirit wherever I could trace it; but it still fled from me. It was a ghost which all had heard of, but none had seen. None would acknowledge that he thought the publick proceeding with regard to our Catholick dissenters to be blameable; but several were sorry it had made an ill impression upon others, and that my interest was hurt by my share in the business. I find with satisfaction and pride, that not above four or five in this city (and I dare say these misled by some gross misrepresentation) have signed that symbol of delusion and bond of sedition, that libel on the national religion and English character, the Protestant Association. It is therefore, gentlemen, not by way of cure but of prevention, and lest the arts of wicked men may prevail over the integrity of any one amongst us, that I think it necessary to open to you the merits of this transaction pretty much at large; and I beg your patience upon it: for, although the reasonings that have been used to depreciate the act are of little force, and though the authority of the men concerned in this ill design is not very imposing; yet the audaciousness of these conspirators against the national honour, and the extensive wickedness of their attempts, have raised persons of little importance to a degree of evil eminence, and imparted a sort of sinister dignity to proceedings that had their origin in only the meanest and blindest malice.

In explaining to you the proceedings of parliament which have been complained of, I will state to you,—first, the thing that was done;—next the per-

sons who did it ;—and lastly, the grounds and reasons upon which the legislature proceeded in this deliberate act of publick justice and publick prudence.

Gentlemen, The condition of our nature is such, that we buy our blessings at a price. The reformation, one of the greatest periods of human improvement, was a time of trouble and confusion. The vast structure of superstition and tyranny, which had been for ages in rearing, and which was combined with the interest of the great and of the many ; which was moulded into the laws, the manners, and civil institutions of nations, and blended with the frame and policy of states ; could not be brought to the ground without a fearful struggle ; nor could it fall without a violent concussion of itself and all about it. When this great revolution was attempted in a more regular mode by government, it was opposed by plots and seditions of the people ; when by popular efforts, it was repressed as rebellion by the hand of power ; and bloody executions (often bloodily returned) marked the whole of its progress through all its stages. The affairs of religion, which are no longer heard of in the tumult of our present contentions, made a principal ingredient in the wars and politicks of that time ; the enthusiasm of religion threw a gloom over the politicks ; and political interests poisoned and perverted the spirit of religion upon all sides. The Protestant religion in that violent struggle, infected, as the Popish had been before, by worldly interests and worldly passions, became a persecutor in its turn, sometimes of the new sects, which carried their own principles further than it was convenient to the original reformers ; and always of the body from whom they parted ; and this persecuting spirit arose, not only from the bitterness of retaliation, but from the merciless policy of fear.

It was long before the spirit of true piety and true wisdom, involved in the principles of reformation, could be depurated from the dregs and feculence of the contention with which it was carried through.—However, until this be done, the reformation is not complete : and those that think themselves good Pro-

testants, from their animosity to others, are in that respect no Protestants at all. It was at first thought necessary, perhaps, to oppose to popery another popery, to get the better of it. Whatever was the cause, laws were made in many countries, and in this kingdom in particular, against Papists, which are as bloody as any of those which had been enacted by the popish princes and states: and where those laws were not bloody, in my opinion, they were worse; as they were slow, cruel outrages on our nature, and kept men alive only to insult in their persons every one of the rights and feelings of humanity. I pass those statutes, because I would spare your pious ears the repetition of such shocking things; and I come to that particular law, the repeal of which has produced so many unnatural and unexpected consequences.

A statute was fabricated in the year 1699, by which the saying mass (a church service in the Latin tongue, not exactly the same as our liturgy, but very near it and containing no offence whatsoever against the laws, or against good morals) was forged into a crime punishable with perpetual imprisonment. The teaching school, a useful and virtuous occupation, even the teaching in a private family, was in every Catholick subjected to the same unproportioned punishment. Your industry, and the bread of your children, was taxed for a pecuniary reward to stimulate avarice to do what nature refused: to inform and prosecute on this law. Every Roman Catholick was under the same act, to forfeit his estate to his nearest Protestant relation, until, through a profession of what he did not believe, he redeemed by his hypocrisy, what the law had transferred to the kinsman as the recompence of his profligacy. When thus turned out of doors from his paternal estate, he was disabled from acquiring any other by any industry, donation, or charity; but was rendered a foreigner in his native land, only because he retained the religion, along with the property, handed down to him from those who had been the old inhabitants of that land before him.

Does any one who hears me approve this scheme of things, or think there is common justice, com-

mon sense, or common honesty in any part of it? If any does, let him say it; and I am ready to discuss the point with temper and candour. But instead of approving, I perceive a virtuous indignation beginning to rise in your minds on the mere cold stating of the statute.

But what will you feel, when you know from history how this statute passed, and what were the motives, and what the mode of making it? A party in this nation, enemies to the system of the revolution, were in opposition to the government of king William. They knew that our glorious deliverer was an enemy to all persecution. They knew that he came to free us from slavery and popery, out of a country, where a third of the people are contented Catholics under a Protestant government. He came with a part of his army composed of those very Catholics, to upset the power of a popish prince. Such is the effect of a tolerating spirit; and so much is liberty served in every way, and by all persons, by a manly adherence to its own principles. Whilst freedom is true to itself, every thing becomes subject to it; and its very adversaries are an instrument in its hands.

The party I speak of (like some amongst us who would disparage the best friends of their country) resolved to make the king either violate his principles of toleration, or incur the odium of protecting papists. They therefore brought in this bill, and made it purposely wicked and absurd that it might be rejected. The then court party, discovering their game, turned the tables on them, and returned their bill to them stuffed with still greater absurdities, that its loss might lie upon its original authors. They, finding their own ball thrown back to them, kicked it back again to their adversaries. And thus this act, loaded with the double injustice of two parties, neither of whom intended to pass, what they hoped the other would be persuaded to reject, went through the legislature, contrary to the real wish of all parts of it, and of all the parties that composed it. In this manner these insolent and profligate factions, as if they were playing with balls and counters, made a sport of the fortunes

and the liberties of their fellow creatures. Other acts of persecution have been acts of malice. This was a subversion of justice from wantonness and petulance. Look into the history of bishop Burnet. He is a witness without exception.

The effects of the act have been as mischievous, as its origin was ludicrous and shameful. From that time every person of that communion, lay and ecclesiastick, has been obliged to fly from the face of day. The clergy, concealed in garrets of private houses, or obliged to take shelter (hardly safe to themselves, but infinitely dangerous to their country) under the privileges of foreign ministers, officiated as their servants, and under their protection. The whole body of the Catholics, condemned to beggary and to ignorance in their native land, have been obliged to learn the principles of letters, at the hazard of all their other principles, from the charity of your enemies. They have been taxed to their ruin at the pleasure of necessitous and profligate relations, and according to the measure of their necessity and profligacy. Examples of this are many and affecting. Some of them are known by a friend who stands near me in this hall. It is but six or seven years since a clergyman of the name of Malony, a man of morals, neither guilty nor accused of any thing noxious to the state, was condemned to perpetual imprisonment for exercising the functions of his religion; and after lying in jail two or three years, was relieved by the mercy of government from perpetual imprisonment, on condition of perpetual banishment. A brother of the earl of Shrewsbury, a Talbot, a name respectable in this country, whilst its glory is any part of its concern, was hauled to the bar of the Old Bailey among common felons, and only escaped the same doom, either by some error in the process, or that the wretch who brought him there could not correctly describe his person; I now forget which.—In short, the persecution would never have relented for a moment, if the judges, superseding (though with an ambiguous example) the strict rule of their artificial duty by the higher obligation of their conscience, did

not constantly throw every difficulty in the way of such informers. But so ineffectual is the power of legal evasion against legal iniquity, that it was but the other day, that a lady of condition, beyond the middle of life, was on the point of being stripped of her whole fortune by a near relation, to whom she had been a friend and benefactor : and she must have been totally ruined, without a power of redress or mitigation from the courts of law, had not the legislature itself rushed in, and by a special act of parliament rescued her from the injustice of its own statutes. One of the acts authorizing such things was that which we in part repealed, knowing what our duty was ; and doing that duty as men of honour and virtue, as good Protestants, and as good citizens. Let him stand forth that disapproves what we have done !

Gentlemen, bad laws are the worst sort of tyranny. In such a country as this, they are of all bad things the worst : worse by far than any where else ; and they derive a particular malignity even from the wisdom and soundness of the rest of our institutions. For very obvious reasons you cannot trust the crown with a dispensing power over any of your laws. However, a government, be it as bad as it may, will, in the exercise of a discretionary power, discriminate times and persons ; and will not ordinarily pursue any man, when its own safety is not concerned. A mercenary informer knows no distinction. Under such a system, the obnoxious people are slaves, not only to the government, but they live at the mercy of every individual. They are at once the slaves of the whole community, and of every part of it ; and the worst and most unmerciful men are those on whose goodness they most depend.

In this situation men not only shrink from the frowns of a stern magistrate ; but they are obliged to fly from their very species. The seeds of destruction are sown in civil intercourse, in social habitudes. The blood of wholesome kindred is infected. Their tables and beds are surrounded with snares. All the

means given by Providence to make life safe and comfortable, are perverted into instruments of terror and torment. This species of universal subserviency, that makes the very servant who waits behind your chair, the arbiter of your life and fortune, has such a tendency to degrade and abase mankind, and to deprive them of that assured and liberal state of mind, which alone can make us what we ought to be, that I vow to God I would sooner bring myself to put a man to immediate death for opinions I disliked, and so to get rid of the man and his opinions at once, than to fret him with a feverish being, tainted with the jail distemper of a contagious servitude, to keep him above ground, an animated mass of putrefaction; corrupted himself, and corrupting all about him.

The act repealed was of this direct tendency; and it was made in the manner which I have related to you. I will now tell you by whom the bill of repeal was brought into parliament. I find it has been industriously given out in this city (from kindness to me unquestionably) that I was the mover or the seconder. The fact is, I did not once open my lips on the subject during the whole progress of the bill. I do not say this as disclaiming my share in that measure. Very far from it. I inform you of this fact, lest I should seem to arrogate to myself the merits which belong to others. To have been the man chosen out to redeem our fellow citizens from slavery; to purify our laws from absurdity and injustice; and to cleanse our religion from the blot and stain of persecution, would be an honour and happiness to which my wishes would undoubtedly aspire; but to which nothing but my wishes could possibly have entitled me. That great work was in hands in every respect far better qualified than mine. The mover of the bill was Sir George Saville.

When an act of great and signal humanity was to be done, and done with all the weight and authority that belonged to it, the world could cast its eyes upon none but him. I hope that few things, which have a

tendency to bless or to adorn life, have wholly escaped my observation in my passage through it. I have sought the acquaintance of that gentleman, and have seen him in all situations. He is a true genius ; with an understanding vigorous, and acute, and refined, and distinguishing even to excess ; and illuminated with a most unbounded, peculiar, and original cast of imagination. With these he possesses many external and instrumental advantages ; and he makes use of them all. His fortune is among the largest ; a fortune which, wholly unincumbered, as it is, with one single charge from luxury, vanity, or excess, sinks under the benevolence of its dispenser. This private benevolence, expanding itself into patriotism, renders his whole being the estate of the publick, in which he has not reserved a *peculium* for himself of profit, diversion, or relaxation. During the session, the first in, and the last out of the house of commons ; he passes from the senate to the camp ; and, seldom seeing the seat of his ancestors, he is always in parliament to serve his country, or in the field to defend it. But in all well wrought compositions, some particulars stand out more eminently than the rest ; and the things which will carry his name to posterity, are his two bills ; I mean that for a limitation of the claims of the crown, upon landed estates ; and this for the relief of the Roman Catholicks. By the former, he has emancipated property ; by the latter he has quieted conscience ; and by both, he has taught that grand lesson to government and subject,—no longer to regard each other as adverse parties.

Such was the mover of the act that is complained of by men, who are not quite so good as he is ; an act, most assuredly not brought in by him from any partiality to that sect which is the object of it. For among his faults, I really cannot help reckoning a greater degree of prejudice against that people, than becomes so wise a man. I know that he inclines to a sort of disgust, mixed with a considerable degree of asperity, to the system ; and he has few, or rather no habits with any of its professors. What he has done was on

quite other motives. The motives were these, which he declared in his excellent speech on his motion for the bill; namely, his extreme zeal to the Protestant religion, which he thought utterly disgraced by the act of 1699; and his rooted hatred to all kind of oppression, under any colour or upon any pretence whatsoever.

The seconder was worthy of the mover, and the motion. I was not the seconder. It was Mr. Dunning, recorder of this city. I shall say the less of him, because his near relation to you makes you more particularly acquainted with his merits. But I should appear little acquainted with them, or little sensible of them, if I could utter his name on this occasion without expressing my esteem for his character. I am not afraid of offending a most learned body, and most jealous of its reputation for that learning, when I say he is the first of his profession. It is a point settled by those who settle every thing else; and I must add (what I am enabled to say from my own long and close observation) that there is not a man, of any profession, or in any situation, of a more erect and independent spirit; of a more proud honour; a more manly mind; a more firm and determined integrity. Assure yourselves, that the names of two such men will bear a great load of prejudice in the other scale, before they can be entirely outweighed.

With this mover, and this seconder, agreed the *whole* house of commons; the *whole* house of lords; the *whole* bench of bishops; the king; the ministry; the opposition; all the distinguished clergy of the establishment; all the eminent lights (for they were consulted) of the dissenting churches. This according voice of national wisdom ought to be listened to with reverence. To say that all these descriptions of Englishmen unanimously concurred in a scheme for introducing the Catholick religion, or that none of them understood the nature and effects of what they were doing, so well as a few obscure clubs of people, whose names you never heard of, is shamelessly absurd. Surely it is paying a miserable com-

pliment to the religion we profess, to suggest, that every thing eminent in the kingdom is indifferent, or even adverse to that religion, and that its security is wholly abandoned to the zeal of those who have nothing but their zeal to distinguish them. In weighing this unanimous concurrence of whatever the nation has to boast of, I hope you will recollect, that all these concurring parties do by no means love one another enough to agree in any point, which was not both evidently, and importantly, right.

To prove this; to prove, that the measure was both clearly and materially proper, I will next lay before you (as I promised) the political grounds and reasons for the repeal of that penal statute; and the motives to its repeal at that particular time.

Gentlemen, America——When the English nation seemed to be dangerously, if not irrecoverably divided; when one, and that the most growing branch, was torn from the parent stock, and ingrafted on the power of France, a great terrour fell upon this kingdom. On a sudden we awakened from our dreams of conquest, and saw ourselves threatened with an immediate invasion; which we were, at that time, very ill prepared to resist. You remember the cloud that gloomed over us all. In that hour of our dismay, from the bottom of the hiding places, into which the indiscriminate rigour of our statutes had driven them, came out the body of the Roman Catholicicks. They appeared before the steps of a tottering throne, with one of the most sober, measured, steady, and dutiful addresses, that was ever presented to the crown. It was no holiday ceremony; no anniversary compliment of parade and show. It was signed by almost every gentleman of that persuasion, of note or property, in England. At such a crisis, nothing but a decided resolution to stand or fall with their country, could have dictated such an address; the direct tendency of which was to cut off all retreat; and to render them peculiarly obnoxious to an invader of their own communion. The address showed, what I long languished to see, that all the

subjects of England had cast off all foreign views and connexions, and that every man looked for his relief from every grievance, at the hands only of his own natural government.

It was necessary, on our part, that the natural government should show itself worthy of that name. It was necessary, at the crisis I speak of, that the supreme power of the state should meet the conciliatory dispositions of the subject. To delay protection would be to reject allegiance. And why should it be rejected, or even coldly and suspiciously received? If any independent Catholick state should choose to take part with this kingdom in a war with France and Spain, that bigot (if such a bigot could be found) would be heard with little respect, who could dream of objecting his religion to an ally, whom the nation would not only receive with its freest thanks, but purchase with the last remains of its exhausted treasure. To such an ally we should not dare to whisper a single syllable of those base and invidious topicks, upon which, some unhappy men would persuade the state, to reject the duty and allegiance of its own members. Is it then because foreigners are in a condition to set our malice at defiance, that with *them*, we are willing to contract engagements of friendship, and to keep them with fidelity and honour; but that, because we conceive some descriptions of our countrymen are not powerful enough to punish our malignity, we will not permit them to support our common interest? Is it on that ground, that our anger is to be kindled by their offered kindness? Is it on that ground, that they are to be subjected to penalties, because they are willing, by actual merit, to purge themselves from imputed crimes? Lest by an adherence to the cause of their country they should acquire a title to fair and equitable treatment, are we resolved to furnish them with causes of eternal enmity; and rather supply them with just and founded motives to disaffection, than not to have that disaffection in existence to justify an oppression,

which, not from policy but disposition, we have pre-determined to exercise?

What shadow of reason could be assigned, why, at a time, when the most protestant part of this protestant empire found it for its advantage to unite with the two principal popish states, to unite itself in the closest bonds with France and Spain, for our destruction, that we should refuse to unite with our own Catholick countrymen for our own preservation? Ought we, like madmen, to tear off the plaisters, that the lenient hand of prudence had spread over the wounds and gashes, which in our delirium of ambition we had given to our own body? No person ever reprobated the American war more than I did, and do, and ever shall. But I never will consent that we should lay additional voluntary penalties on ourselves, for a fault which carries but too much of its own punishment in its own nature. For one, I was delighted with the proposal of internal peace. I accepted the blessing with thankfulness and transport; I was truly happy to find *one* good effect of our civil distractions, that they had put an end to all religious strife and heart-burning in our own bowels. What must be the sentiments of a man, who would wish to perpetuate domestick hostility, when the causes of dispute are at an end; and who, crying out for peace with one part of the nation on the most humiliating terms, should deny it to those, who offer friendship without any terms at all?

But if I was unable to reconcile such a denial to the contracted principles of local duty, what answer could I give to the broad claims of general humanity? I confess to you freely, that the sufferings and distresses of the people of America in this cruel war, have at times affected me more deeply than I can express. I felt every Gazette of triumph as a blow upon my heart, which has an hundred times sunk and fainted within me at all the mischiefs brought upon those who bear the whole brunt of war in the heart of their country. Yet the Americans are utter strangers to me; a nation among whom I am not sure that I have

a single acquaintance. Was I to suffer my mind to be so unaccountably warped; was I to keep such iniquitous weights and measures of temper and of reason, as to sympathize with those who are in open rebellion against an authority which I respect, at war with a country which by every title ought to be, and is most dear to me; and yet to have no feeling at all for the hardships and indignities suffered by men, who, by their very vicinity, are bound up in a nearer relation to us; who contribute their share, and more than their share, to the common prosperity; who perform the common offices of social life, and who obey the laws to the full as well as I do? Gentlemen, the danger to the state being out of the question (of which, let me tell you, statesmen themselves are apt to have but too exquisite a sense) I could assign no one reason of justice, policy, or feeling, for not concurring most cordially, as most cordially I did concur, in softening some part of that shameful servitude, under which several of my worthy fellow-citizens were groaning.

Important effects followed this act of wisdom. They appeared at home and abroad, to the great benefit of this kingdom; and, let me hope, to the advantage of mankind at large. It betokened union among ourselves. It showed soundness, even on the part of the persecuted, which generally is the weak side of every community. But its most essential operation was not in England. The act was immediately, though very imperfectly, copied in Ireland; and this imperfect transcript of an imperfect act, this first faint sketch of toleration, which did little more than disclose a principle, and mark out a disposition, completed in a most wonderful manner the re-union to the state, of all the Catholics of that country. It made us, what we ought always to have been, one family, one body, one heart and soul, against the family combination, and all other combinations of our enemies. We have indeed obligations to that people, who received such small benefits with so much gratitude; and for which gratitude and attach-

ment to us, I am afraid they have suffered not a little in other places.

I dare say, you have all heard of the privileges indulged to the Irish Catholics residing in Spain. You have likewise heard with what circumstances of severity they have been lately expelled from the sea-ports of that kingdom; driven into the inland cities; and there detained as a sort of prisoners of state. I have good reason to believe, that it was the zeal to our government and our cause (somewhat indiscreetly expressed in one of the addresses of the Catholics of Ireland) which has thus drawn down on their heads the indignation of the court of Madrid; to the inexpressible loss of several individuals, and in future, perhaps, to the great detriment of the whole of their body. Now that our people should be persecuted in Spain for their attachment to this country, and persecuted in this country for their supposed enmity to us, is such a jarring reconciliation of contradictory distresses, is a thing at once so dreadful and ridiculous, that no malice short of diabolical, would wish to continue any human creatures in such a situation. But honest men will not forget either their merit or their sufferings. There are men (and many, I trust, there are) who, out of love to their country and their kind, would torture their invention to find excuses for the mistakes of their brethren; and who, to stifle dissension, would construe, even doubtful appearances, with the utmost favour: such men will never persuade themselves to be ingenious and refined in discovering disaffection and treason in the manifest palpable signs of suffering loyalty. Persecution is so unnatural to them, that they gladly snatch the very first opportunity of laying aside all the tricks and devices of penal politics; and of returning home, after all their irksome and vexatious wanderings, to our natural family mansion, to the grand social principle, that unites all men, in all descriptions, under the shadow of an equal and impartial justice.

Men of another sort, I mean the bigoted enemies to liberty, may, perhaps, in their politics, make no

account of the good or ill affection of the Catholics of England, who are but a handful of people (enough to torment, but not enough to fear) perhaps not so many, of both sexes and of all ages, as fifty thousand. But, gentlemen, it is possible you may not know, that the people of that persuasion in Ireland amount at least to sixteen or seventeen hundred thousand souls. I do not at all exaggerate the number. A nation to be persecuted ! Whilst we were masters of the sea, embodied with America, and in alliance with half the powers of the continent, we might perhaps, in that remote corner of Europe, afford to tyrannize with impunity. But there is a revolution in our affairs, which makes it prudent to be just. In our late awkward contest with Ireland about trade, had religion been thrown in, to ferment and embitter the mass of discontents, the consequences might have been truly dreadful. But very happily, that cause of quarrel was previously quieted by the wisdom of the acts I am commending.

Even in England, where I admit the danger from the discontent of that persuasion to be less than in Ireland ; yet even here, had we listened to the counsels of fanaticism and folly, we might have wounded ourselves very deeply ; and wounded ourselves in a very tender part. You are apprized, that the Catholics of England consist mostly of your best manufacturers. Had the legislature chosen, instead of returning their declarations of duty with correspondent good will, to drive them to despair, there is a country at their very door, to which they would be invited ; a country in all respects as good as ours, and with the finest cities in the world ready built to receive them. And thus the bigotry of a free country, and in an enlightened age, would have re-peopled the cities of Flanders, which, in the darkness of two hundred years ago, had been desolated by the superstition of a cruel tyrant. Our manufactures were the growth of the persecutions in the Low Countries. What a spectacle would it be to Europe, to see us at this time of day, balancing the account of tyranny with those very

countries, and by our persecutions, driving back trade and manufacture, as a sort of vagabonds, to their original settlement! But I trust we shall be saved this last of disgraces.

So far as to the effect of the act on the interests of this nation. With regard to the interests of mankind at large, I am sure the benefit was very considerable. Long before this act, indeed, the spirit of toleration began to gain ground in Europe. In Holland, the third part of the people are Catholicks; they live at ease; and are a sound part of the state. In many parts of Germany, Protestants and Papists partake the same cities, the same councils, and even the same churches. The unbounded liberality of the king of Prussia's conduct on this occasion is known to all the world; and it is of a piece with the other grand maxims of his reign. The magnanimity of the imperial court, breaking through the narrow principles of its predecessors, has indulged its protestant subjects, not only with property, with worship, with liberal education; but with honours and trusts, both civil and military. A worthy protestant gentleman of this country now fills, and fills with credit, a high office in the Austrian Netherlands. Even the Lutheran obstinacy of Sweden has thawed at length, and opened a toleration to all religions. I know myself, that in France the Protestants begin to be at rest. The army, which in that country is every thing, is open to them; and some of the military rewards and decorations which the laws deny, are supplied by others, to make the service acceptable and honourable. The first minister of finance in that country, is a Protestant. Two years war without a tax, is among the first fruits of their liberality. Tarnished as the glory of this nation is, and as far as it has waded into the shades of an eclipse, some beams of its former illumination still play upon its surface; and what is done in England is still looked to, as argument, and as example. It is certainly true, that no law of this country ever met with such universal applause abroad, or was so likely to produce the perfection of that to-

lating spirit, which, as I observed, has been long gaining ground in Europe : for abroad, it was universally thought that we had done, what, I am sorry to say, we had not ; they thought we had granted a full toleration. That opinion was, however, so far from hurting the Protestant cause, that I declare, with the most serious solemnity, my firm belief, that no one thing done for these fifty years past, was so likely to prove deeply beneficial to our religion at large as sir George Savile's act. In its effects it was, "an act for tolerating and protecting Protestantism throughout Europe : " and I hope, that those who were taking steps for the quiet and settlement of our Protestant brethren in other countries, will even yet, rather consider the steady equity of the greater and better part of the people of Great Britain, than the vanity and violence of a few.

I perceive, gentlemen, by the manner of all about me, that you look with horror on the wicked clamour which has been raised on this subject ; and that instead of an apology for what was done, you rather demand from me an account, why the execution of the scheme of toleration, was not made more answerable to the large and liberal grounds on which it was taken up. The question is natural and proper ; and I remember that a great and learned magistrate,* distinguished for his strong and systematick understanding, and who at that time was a member of the house of commons, made the same objection to the proceeding. The statutes, as they now stand, are, without doubt, perfectly absurd. But I beg leave to explain the cause of this gross imperfection, in the tolerating plan, as well and as shortly as I am able. It was universally thought, that the session ought not to pass over without doing *something* in this business. To revise the whole body of the penal statutes was conceived to be an object too big for the time. The penal statute therefore which was chosen for repeal (chosen to show our disposition to conciliate,

* The Chancellor.

not to perfect a toleration) was this act of ludicrous cruelty, of which I have just given you the history. It is an act, which, though not by a great deal so fierce and bloody as some of the rest, was infinitely more ready in the execution. It was the act which gave the greatest encouragement to those pests of society, mercenary informers, and interested disturbers of household peace; and it was observed with truth, that the prosecutions, either carried to conviction or compounded, for many years, had been all commenced upon that act. It was said, that whilst we were deliberating on a more perfect scheme, the spirit of the age would never come up to the execution of the statutes which remained; especially as more steps, and a cooperation of more minds and powers, were required towards a mischievous use of them, than for the execution of the act to be repealed: that it was better to unravel this texture from below than from above, beginning with the latest, which, in general practice, is the severest evil. It was alleged, that this slow proceeding would be attended with the advantage of a progressive experience; and that the people would grow reconciled to toleration, when they should find by the effects, that justice was not so irreconcilable an enemy to convenience as they had imagined.

These, gentlemen, were the reasons why we left this good work in the rude unfinished state, in which good works are commonly left, through the tame circumspection with which a timid prudence so frequently enervates beneficence. In doing good, we are generally cold, and languid, and sluggish; and of all things afraid of being too much in the right. But the works of malice and injustice are quite in another style. They are finished with a bold, masterly hand; touched as they are with the spirit of those vehement passions that call forth all our energies whenever we oppress and persecute.

Thus this matter was left for the time, with a full determination in parliament, not to suffer other and worse statutes to remain for the purpose of counter-

acting the benefits proposed by the repeal of one penal law ; for nobody then dreamed of defending what was done as a benefit on the ground of its being no benefit at all. We were not then ripe for so mean a subterfuge.

I do not wish to go over the horrid scene that was afterwards acted. Would to God it could be expunged for ever from the annals of this country ! But since it must subsist for our shame, let it subsist for our instruction. In the year 1780, there were found in this nation men deluded enough (for I give the whole to their delusion) on pretences of zeal and piety, without any sort of provocation whatsoever, real or pretended, to make a desperate attempt, which would have consumed all the glory and power of this country in the flames of London ; and buried all law, order, and religion, under the ruins of the metropolis of the Protestant world. Whether all this mischief done, or in the direct train of doing, was in their original scheme, I cannot say. I hope it was not ; but this would have been the unavoidable consequence of their proceedings, had not the flames they had lighted up in their fury been extinguished in their blood.

All the time that this horrid scene was acting, or avenging, as well as for some time before, and ever since, the wicked instigators of this unhappy multitude, guilty, with every aggravation, of all their crimes, and screened in a cowardly darkness from their punishment, continued, without interruption, pity, or remorse, to blow up the blind rage of the populace, with a continued blast of pestilential libels, which infected and poisoned the very air we breathed in.

The main drift of all the libels, and all the riots, was, to force parliament (to persuade us was hopeless) into an act of national perfidy, which has no example. For, gentlemen, it is proper you should all know what infamy we escaped by refusing that repeal, for a refusal of which, it seems, I, among others, stand somewhere or other accused. When we took away,

on the motives which I had the honour of stating to you, a few of the innumerable penalties upon an oppressed and injured people, the relief was not absolute, but given on a stipulation and compact between them and us; for we bound down the Roman Catholicks with the most solemn oaths, to bear true allegiance to this government; to abjure all sort of temporal power in any other; and to renounce, under the same solemn obligations, the doctrines of systematick perfidy, with which they stood (I conceive very unjustly) charged. Now our modest petitioners came up to us, most humbly praying nothing more, than that we should break our faith, without any one cause whatsoever of forfeiture assigned; and when the subjects of this kingdom had, on their part, fully performed their engagement, we should refuse on our part, the benefit we had stipulated on the performance of those very conditions that were prescribed by our own authority, and taken on the sanction of our publick faith—That is to say, when we had inveigled them with fair promises within our door, we were to shut it on them; and, adding mockery to outrage—to tell them: “Now we have got you fast—your consciences are bound to a power resolved on your destruction. We have made you swear, that your religion obliges you to keep your faith: fools as you are! we will now let you see, that our religion enjoins us to keep no faith with you.”—They who would advisedly call upon us to do such things, must certainly have thought us not only a convention of treacherous tyrants, but a gang of the lowest and dirtiest wretches that ever disgraced humanity. Had we done this, we should have indeed proved, that there were *some* in the world whom no faith could bind; and we should have *convicted* ourselves of that odious principle of which Papists stood *accused* by those very savages, who wished us, on that accusation, to deliver them over to their fury.

In this audacious tumult, when our very name and character, as gentlemen, was to be cancelled for ever

along with the faith and honour of the nation, I, who had exerted myself very little on the quiet passing of the bill, thought it necessary then to come forward. I was not alone; but though some distinguished members on all sides, and particularly on ours, added much to their high reputation by the part they took on that day (a part which will be remembered as long as honour, spirit, and eloquence have estimation in the world) I may and will value myself so far, that yielding in abilities to many, I yielded in zeal to none. With warmth and with vigour, and animated with a just and natural indignation, I called forth every faculty that I possessed, and I directed it in every way which I could possibly employ it. I laboured night and day. I laboured in parliament. I laboured out of parliament. If therefore the resolution of the house of commons, refusing to commit this act of unmatched turpitude, be a crime, I am guilty among the foremost. But indeed, whatever the faults of that house may have been, no one member was found hardy enough to propose so infamous a thing; and on full debate we passed the resolution against the petitions with as much unanimity, as we had formerly passed the law of which these petitions demanded the repeal.

There was a circumstance (justice will not suffer me to pass it over) which, if any thing could enforce the reasons I have given, would fully justify the act of relief, and render a repeal, or any thing like a repeal, unnatural, impossible. It was the behaviour of the persecuted Roman Catholicks under the acts of violence and brutal insolence, which they suffered. I suppose there are not in London less than four or five thousand of that persuasion from my country, who do a great deal of the most laborious works in the metropolis; and they chiefly inhabit those quarters, which were the principal theatre of the fury of the bigotted multitude. They are known to be men of strong arms, and quick feelings, and more remarkable for a determined resolution, than clear ideas, or much foresight. But though provoked by every thing that can

stir the blood of men, their houses and chapels in flames, and with the most atrocious profanations of every thing which they hold sacred before their eyes, not a hand was moved to retaliate, or even to defend. Had a conflict once begun, the rage of their persecutors would have redoubled. Thus fury increasing by the reverberation of outrages, house being fired for house, and church for chapel, I am convinced, that no power under heaven could have prevented a general conflagration; and at this day London would have been a tale. But I am well informed, and the thing speaks it, that their clergy exerted their whole influence to keep their people in such a state of forbearance and quiet, as, when I look back, fills me with astonishment; but not with astonishment only. Their merits on that occasion ought not to be forgotten; nor will they, when Englishmen come to recollect themselves. I am sure it were far more proper to have called them forth, and given them the thanks of both houses of parliament, than to have suffered those worthy clergymen, and excellent citizens, to be hunted into holes and corners, whilst we are making low minded inquisitions into the number of their people; as if a tolerating principle was never to prevail, unless we were very sure that only a few could possibly take advantage of it. But indeed we are not yet well recovered of our fright. Our reason, I trust, will return with our security; and this unfortunate temper will pass over like a cloud.

Gentlemen, I have now laid before you a few of the reasons for taking away the penalties of the act of 1699, and for refusing to establish them on the riotous requisition of 1780. Because I would not suffer any thing which may be for your satisfaction to escape, permit me just to touch on the objections urged against our act and our resolves, and intended as a justification of the violence offered to both houses. "Parliament," they assert, "was too hasty, and they ought, in so essential and alarming a change, to have proceeded with a far greater degree of deliberation." The direct contrary. Parliament was too slow. They

took fourscore years to deliberate on the repeal of an act which ought not to have survived a second session. When at length, after a procrastination of near a century, the business was taken up, it proceeded in the most publick manner, by the ordinary stages, and as slowly as a law so evidently right as to be resisted by none, would naturally advance. Had it been read three times in one day, we should have shown only a becoming readiness to recognise by protection the undoubted dutiful behaviour of those whom we had but too long punished for offences of presumption or conjecture. But for what end was that bill to linger beyond the usual period of an unopposed measure? Was it to be delayed until a rabble in Edinburgh should dictate to the church of England what measure of persecution was fitting for her safety? Was it to be adjourned until a fanatical force could be collected in London, sufficient to frighten us out of all our ideas of policy and justice? Were we to wait for the profound lectures on the reason of state, ecclesiastical and political, which the protestant association have since condescended to read to us? Or were we, seven hundred peers and commoners, the only persons ignorant of the ribbald invectives which occupy the place of argument in those remonstrances, which every man of common observation had heard a thousand times over, and a thousand times over had despised? All men had before heard what they have to say; and all men at this day know what they dare to do; and I trust, all honest men are equally influenced by the one, and by the other.

But they tell us, that those our fellow-citizens, whose chains we have a little relaxed, are enemies to liberty and our free constitution.—Not enemies, I presume, to their *own* liberty. And as to the constitution, until we give them some share in it, I do not know on what pretence we can examine into their opinions about a business in which they have no interest or concern. But after all, are we equally sure, that they are adverse to our constitution, as that our statutes are hostile and destructive to them? For my

part, I have reason to believe, their opinions and inclinations in that respect are various, exactly like those of other men: and if they lean more to the crown than I, and than many of you think *we* ought, we must remember, that he who aims at another's life, is not to be surprised if he flies into any sanctuary that will receive him. The tenderness of the executive power is the natural asylum of those upon whom the laws have declared war; and to complain that men are inclined to favour the means of their own safety, is so absurd, that one forgets the injustice in the ridicule.

I must fairly tell you, that so far as my principles are concerned (principles, that I hope will only depart with my last breath) that I have no idea of a liberty unconnected with honesty and justice. Nor do I believe, that any good constitutions of government or of freedom, can find it necessary for their security to doom any part of the people to a permanent slavery. Such a constitution of freedom, if such can be, is in effect no more than another name for the tyranny of the strongest faction; and factions in republics have been, and are, full as capable as monarchs, of the most cruel oppression and injustice. It is but too true, that the love, and even the very idea, of genuine liberty, is extremely rare. It is but too true, that there are many, whose whole scheme of freedom, is made up of pride, perverseness, and insolence. They feel themselves in a state of thralldom, they imagine that their souls are cooped and cabbined in, unless they have some man, or some body of men, dependent on their mercy. This desire of having some one below them, descends to those who are the very lowest of all—and a Protestant cobbler, debased by his poverty, but exalted by his share of the ruling church, feels a pride in knowing it is by his generosity alone, that the peer, whose footman's in-step he measures, is able to keep his chaplain from a jail. This disposition is the true source of the passion, which many men in very humble life, have taken to the American war. *Our* subjects in Ame-

rica; *our* colonies; *our* dependants. This lust of party power, is the liberty they hunger and thirst for; and this siren song of ambition, has charmed ears, that one would have thought were never organized to that sort of musick.

This way, of *proscribing the citizens by denominations and general descriptions*, dignified by the name of reason of state, and security for constitutions and commonwealths, is nothing better at bottom, than the miserable invention of an ungenerous ambition, which would fain hold the sacred trust of power, without any of the virtues or any of the energies, that give a title to it; a receipt of policy, made up of a detestable compound of malice, cowardice, and sloth. They would govern men against their will; but in that government they would be discharged from the exercise of vigilance, providence, and fortitude; and therefore, that they may sleep on their watch, they consent to take some one division of the society into partnership of the tyranny over the rest. But let government, in what form it may be, comprehend the whole in its justice, and restrain the suspicious by its vigilance; let it keep watch and ward; let it discover by its sagacity, and punish by its firmness, all delinquency against its power, whenever delinquency exists in the overt acts; and then it will be as safe as ever God and nature intended it should be. Crimes are the acts of individuals, and not of denominations; and therefore arbitrarily to class men under general descriptions, in order to proscribe and punish them in the lump for a presumed delinquency, of which perhaps but a part, perhaps none at all, are guilty, is indeed a compendious method, and saves a world of trouble about proof; but such a method instead of being law, is an act of unnatural rebellion against the legal dominion of reason and justice; and this vice, in any constitution that entertains it, at one time or other will certainly bring on its ruin.

We are told that this is not a religious persecution, and its abettors are loud in disclaiming all severities on account of conscience. Very fine indeed! then

let it be so! they are not persecutors; they are only tyrants. With all my heart. I am perfectly indifferent concerning the pretexts upon which we torment one another; or whether it be for the constitution of the church of England, or for the constitution of the state of England, that people choose to make their fellow-creatures wretched. When we were sent into a place of authority, you that sent us had yourselves but one commission to give. You could give us none to wrong or oppress, or even to suffer any kind of oppression or wrong, on any grounds whatsoever; not on political, as in the affairs of America; not on commercial, as in those of Ireland; not in civil, as in the laws for debt; not in religious, as in the statutes against Protestant or Catholick dissenters. The diversified but connected fabrick of universal justice, is well cramped and bolted together in all its parts; and depend upon it, I never have employed, and I never shall employ, any engine of power which may come into my hands, to wrench it asunder. All shall stand, if I can help it, and all shall stand connected. After all, to complete this work, much remains to be done; much in the east, much in the west. But great as the work is, if our will be ready, our powers are not deficient.

Since you have suffered me to trouble you so much on this subject, permit me, gentlemen, to detain you a little longer. I am, indeed, most solicitous to give you perfect satisfaction. I find there are some of a better and softer nature than the persons with whom I have supposed myself in debate, who neither think ill of the act of relief, nor by any means desire the repeal, not accusing but lamenting what was done, on account of the consequences, have frequently expressed their wish, that the late act had never been made. Some of this description, and persons of worth, I have met with in this city. They conceive, that the prejudices, whatever they might be, of a large part of the people, ought not to have been shocked; that their opinions ought to have been previously

taken, and much attended to; and that thereby the late horrid scenes might have been prevented.

I confess, my notions are widely different; and I never was less sorry for any action of my life. I like the bill the better, on account of the events of all kinds that followed it. It relieved the real sufferers; it strengthened the state; and, by the disorders that ensued, we had clear evidence that there lurked a temper somewhere, which ought not to be fostered by the laws. No ill consequences whatever could be attributed to the act itself. We knew beforehand, or we were poorly instructed, that toleration is odious to the intolerant; freedom to oppressors; property to robbers; and all kinds and degrees of prosperity to the envious. We knew, that all these kinds of men would gladly gratify their evil dispositions under the sanction of law and religion, if they could: if they could not, yet, to make way to their objects, they would do their utmost to subvert all religion and all law. This we certainly knew. But knowing this, is there any reason, because thieves break in and steal, and thus bring detriment to you, and draw ruin on themselves, that I am to be sorry that you are in possession of shops, and of warehouses, and of wholesome laws to protect them? Are you to build no houses, because desperate men may pull them down upon their own heads? Or, if a malignant wretch will cut his own throat because he sees you give alms to the necessitous and deserving; shall his destruction be attributed to your charity, and not to his own deplorable madness? If we repent of our good actions, what, I pray you, is left for our faults and follies? It is not the beneficence of the laws, it is the unnatural temper which beneficence can fret and sour, that is to be lamented. It is this temper which, by all rational means, ought to be sweetened and corrected. If froward men should refuse this cure, can they vitiate any thing but themselves? Does evil so react upon good, as not only to retard its motion, but to change its nature? If it can so operate, then good men will always be in the power

of the bad ; and virtue, by a dreadful reverse of order, must lie under perpetual subjection and bondage to vice.

As to the opinion of the people, which some think, in such cases, is to be implicitly obeyed ; near two years tranquillity, which followed the act, and its instant imitation in Ireland, proved abundantly, that the late horrible spirit was, in a great measure, the effect of insidious art, and perverse industry, and gross misrepresentation. But suppose that the dislike had been much more deliberate, and much more general than I am persuaded it was. When we know, that the opinions of even the greatest multitudes, are the standard of rectitude, I shall think myself obliged to make those opinions the masters of my conscience. But if it may be doubted whether Omnipotence itself is competent to alter the essential constitution of right and wrong, sure I am, that such *things*, as they and I, are possessed of no such power. No man carries further than I do the policy of making government pleasing to the people. But the widest range of this politick complaisance is confined within the limits of justice. I would not only consult the interests of the people, but I would cheerfully gratify their humours. We are all a sort of children that must be soothed and managed. I think I am not austere or formal in my nature. I would bear, I would even myself play my part in, any innocent buffooneries, to divert them. But I never will act the tyrant for their amusement. If they will mix malice in their sports, I shall never consent to throw them any living, sentient, creature whatsoever : no, not so much as a kitling, to torment.

“ But if I profess all this impolitick stubbornness, I may chance never to be elected into parliament.” It is certainly not pleasing to be put out of the publick service. But I wish to be a member of parliament, to have my share of doing good, and resisting evil. It would therefore be absurd to renounce my objects, in order to obtain my seat. I deceive myself indeed most grossly, if I had not much rather pass the re-

mainder of my life hidden in the recesses of the deepest obscurity, feeding my mind even with the visions and imaginations of such things, than to be placed on the most splendid throne of the universe, tantalized with a denial of the practice of all which can make the greatest situation any other than the greatest curse. Gentlemen, I have had my day. I can never sufficiently express my gratitude to you for having set me in a place, wherein I could lend the slightest help to great and laudable designs. If I have had my share, in any measure giving quiet to private property, and private conscience; if by my vote I have aided in securing to families the best possession, peace; if I have joined in reconciling kings to their subjects, and subjects to their prince; if I have assisted to loosen the foreign holdings of the citizen, and taught him to look for his protection to the laws of his country, and for his comfort to the good will of his countrymen;—if I have thus taken my part with the best of men in the best of their actions, I can shut the book. I might wish to read a page or two more; but this is enough for my measure.—I have not lived in vain.

And now, gentlemen, on this serious day, when I come, as it were, to make up my account with you, let me take to myself some degree of honest pride on the nature of the charges that are against me. I do not here stand before you accused of venality, or of neglect of duty. It is not said, that, in the long period of my service, I have, in a single instance, sacrificed the slightest of your interests to my ambition, or to my fortune. It is not alleged, that to gratify any anger, or revênge of my own, or of my party, I have had a share in wronging or oppressing any description of men, or any one man in any description. No! the charges against me, are all of one kind, that I have pushed the principles of general justice and benevolence too far; further than a cautious policy would warrant; and further than the opinions of many would go along with me.—In every accident which may happen through life, in pain, in sorrow, in depression,

and distress, I will call to mind this accusation, and be comforted.

Gentlemen, I submit the whole to your judgment. Mr. Mayor, I thank you for the trouble you have taken on this occasion. In your state of health, it is particularly obliging. If this company should think it advisable for me to withdraw, I shall respectfully retire. If you think otherwise, I shall go directly to the council-house and to the change, and without a moment's delay, begin my canvass.

MR. BURKE'S SPEECH

AT BRISTOL, ON DECLINING THE POLL, 1780.

Proclamation being made, as usual, for the electors to appear and give their votes, Mr. Burke on the morning of the second day of the election, stood forward on the hustings, surrounded by a great number of the corporation and other principal citizens, and addressed himself to the whole assembly as follows :

GENTLEMEN,

I DECLINE the election.—It has ever been my rule through life, to observe a proportion between my efforts and my objects. I have never been remarkable for a bold, active, and sanguine pursuit of advantages that are personal to myself.

I have not canvassed the whole of this city in form. But I have taken such a view of it, as satisfies my own mind, that your choice will not ultimately fall upon me. Your city, gentlemen, is in a state of miserable distraction; and I am resolved to withdraw whatever share my pretensions may have had in its unhappy divisions. I have not been in haste. I have tried all prudent means. I have waited for the effect

of all contingencies. If I were fond of a contest, by the partiality of my numerous friends (whom you know to be among the most weighty and respectable people of the city) I have the means of a sharp one in my hands. But I thought it far better with my strength unspent, and my reputation unimpaired, to do, early and from foresight, that which I might be obliged to do from necessity at last.

I am not in the least surprised, nor in the least angry at this view of things. I have read the book of life for a long time, and I have read other books a little. Nothing has happened to me, but what has happened to men much better than me, and in times and in nations full as good as the age and country that we live in. To say that I am no way concerned, would be neither decent nor true. The representation of *Bristol* was an object on many accounts dear to me; and I certainly should very far prefer it to any other in the kingdom. My habits are made to it; and it is in general more unpleasant to be rejected after long trial, than not to be chosen at all.

But, gentlemen, I will see nothing except your former kindness, and I will give way to no other sentiments than those of gratitude. From the bottom of my heart I thank you for what you have done for me. You have given me a long term which is now expired. I have performed the conditions, and enjoyed all the profits to the full; and I now surrender your estate into your hands without being in a single tile, or a single stone impaired or wasted by my use. I have served the publick for fifteen years. I have served you in particular for six. What is passed is well stored. It is safe and out of the power of fortune. What is to come, is in wiser hands than ours; and he, in whose hands it is, best knows, whether it is best for you and me, that I should be in parliament, or even in the world.

Gentlemen, the melancholy event of yesterday reads to us an awful lesson against being too much troubled, about any of the objects of ordinary ambition. The

worthy gentleman,* who has been snatched from us at the moment of the election, and in the middle of the contest, whilst his desires were as warm, and his hopes as eager as ours, has feelingly told us, what shadows we are, and what shadows we pursue.

It has been usual for a candidate who declines, to take his leave by a letter to the sheriffs: but I received your trust in the face of day; and in the face of day, I accept your dismissal. I am not,—I am not at all ashamed to look upon you; nor can my presence discompose the order of business here. I humbly and respectfully take my leave of the sheriffs, the candidates, and the electors; wishing heartily that the choice may be for the best, at a time which calls, if ever time did call, for service that is not nominal. It is no plaything you are about. I tremble when I consider the trust I have presumed to ask. I confided perhaps too much in my intentions. They were really fair and upright; and I am bold to say, that I ask no ill thing for you, when on parting from this place I pray that whomever you chuse to succeed me, he may resemble me exactly in all things, except in my abilities to serve, and my fortune to please you.

* Mr. Coombe.

MR. CURRAN'S SPEECH,

AGAINST THE MARQUIS OF HEADFORT.

IN the year eighteen hundred and four, the reverend Charles Massy brought an action against the marquis of Headfort for a criminal intercourse with his lady. The suit was tried on the twenty seventh of July, in that year, at the Ennis assizes, holden for the county of Clare, when the ensuing speech was delivered by Mr. Curran, as the senior counsel for the plaintiff.

The parties were in the first circle of society, and mutually availed themselves of the highest legal talents of their country. Great art and skill were employed by the defendant's council to mitigate his offence, and to lessen the amount of the damages which were claimed by Mr. Massy. But the eloquence of Mr. Curran was irresistible, and procured for his client the sum of ten thousand pounds.

SPEECH, &c.

NEVER so clearly as in the present instance, have I observed that safeguard of justice, which Providence has placed in the nature of man. Such is the imperious dominion with which truth and reason

wave their sceptre over the human intellect, that no solicitation, however artful, no talent, however commanding, can reduce it from its allegiance. In proportion to the humility of our submission to its rule, do we rise into some faint emulation of that ineffable and presiding divinity, whose characteristic attribute it is to be coerced and bound by the inexorable laws of its own nature, so as to be *all-wise* and *all-just* from necessity, rather than election. You have seen it in the learned advocate who has preceded me, most peculiarly and strikingly illustrated—you have seen *even* his great talents, perhaps the first in any country, languishing under a cause too weak to *carry* him, and too heavy to be *carried* by him. He was forced to dismiss his natural candour and sincerity, and, having no merits in his case, to substitute the dignity of his own manner, the resources of his own ingenuity, over the overwhelming difficulties with which he was surrounded. Wretched client! unhappy advocate! What a combination do you form! But such is the condition of guilt—its commission mean and tremulous—its defence artificial and insincere—its prosecution candid and simple—its condemnation dignified and austere. Such has been the defendant's guilt—such his defence—such shall be my address, and such, I trust, your verdict. The learned counsel has told you, that this unfortunate woman is not to be estimated at forty thousand pounds. Fatal and unquestionable is the truth of this assertion. Alas! gentlemen, she is no longer worth any thing—faded, fallen, degraded, and disgraced, she is worth less than nothing. But it is for the honour, the hope, the expectation, the tenderness, and the comforts that have been blasted by the defendant, and have fled for ever, that you are to remunerate the plaintiff, by the punishment of the defendant. It is not her present value which you are to weigh—but it is her value at that time, when she sat basking in a husband's love, with the blessing of Heaven on her head, and its purity in her heart. When she sat amongst her family, and administered the morality of the parental

board—estimate that past value—compare it with its present deplorable diminution—and it may lead you to form some judgment of the severity of the injury and the extent of the compensation.

The learned counsel has told you, you ought to be cautious, because your verdict cannot be set aside for excess. The assertion is just, but has he treated you fairly by its application? His cause would not allow him to be fair—for, why is the rule adopted in this single action? Because, this being peculiarly an injury to the most susceptible of all human feelings—it leaves the injury of the husband to be ascertained by the sensibility of the jury, and does not presume to measure the justice of their determination, by the cold and chilly exercise of its own discretion. In any other action, it is easy to calculate. If a tradesman's arm is cut off, you can measure the loss which he has sustained—but the wound of feeling, and the agony of the heart, cannot be judged by any standard with which I am acquainted. And you are unfairly dealt with, when you are called on to appreciate the present suffering of the husband by the present guilt, delinquency, and degradation of his wife. As well might you, if called on, to give compensation to a man for the murder of his dearest friend—find the measure of his injury by weighing the ashes of the dead. But it is not, gentlemen of the jury, by weighing the ashes of the dead, that you would estimate the loss of the survivor.

The learned counsel has referred you to other cases, and other countries, for instances of moderate verdicts. I can refer you to some authentick instances of just ones. In the next county, 15,000*l.* against a subaltern officer. In Travers and M'Carthy, 5000*l.* against a servant. In Tighe against Jones, 10,000*l.* against a man not worth a shilling. What then ought to be the rule, where rank and power, and wealth, and station, have combined to render the example of his crime more dangerous—to make his guilt more odious—to make the injury to the plaintiff more grievous, because more conspicuous? I affect no

levelling familiarity, when I speak of persons in the higher ranks of society—distinctions of orders are necessary, and I always feel disposed to treat them with respect—but when it is my duty to speak of the crimes by which they are degraded, I am not so fastidious as to shrink from their contact, when to touch them is essential to their dissection. In this action, the condition, the conduct, and circumstances of the party, are justly and peculiarly the objects of your consideration. Who are the parties? The plaintiff, young, amiable, of family and education. Of the generous disinterestedness of his heart, you can form an opinion, even from the evidence of the defendant, that he declined an alliance, which would have added to his fortune and consideration, and which he rejected for an unportioned union with his present wife. She too at that time young, beautiful and accomplished; and feeling her affection for her husband increase, in proportion as she remembered the ardour of his love, and the sincerity of his sacrifice. Look now to the defendant! I blush to name him! I blush to name a rank which he has tarnished—and a patent that he has worse than cancelled. High in the army—high in the state—the hereditary counsellor of the king—of wealth incalculable—and to this last I advert with an indignant and contemptuous satisfaction, because, as the only instrument of his guilt and shame, it will be the means of his punishment, and the source of compensation for his guilt.

But let me call your attention distinctly to the questions you have to consider. The first is the fact of guilt. Is this noble lord guilty? His counsel knew too well how they would have mortified his vanity, had they given the smallest reason to doubt the splendour of his achievement. Against any such humiliating suspicion, he had taken the most studious precaution by the publicity of the exploit. And here, in this court, and before you, and in the face of the country, has he the unparalleled effrontery of disdaining to resort even to a *confession of innocence*—his guilt established, your next question is, the da-

mages you should give. You have been told, that the amount of the damages should depend on circumstances. You will consider these circumstances, whether of aggravation or mitigation. His learned counsel contend, that the plaintiff has been the author of his own suffering, and ought to receive no compensation for the ill consequences of his own conduct. In what part of the evidence do you find any foundation for that assertion? He indulged her, it seems, in dress—generous and attached, he probably indulged her in that point beyond his means; and the defendant now impudently calls on you, to find an excuse for the adulterer, in the fondness and liberality of the husband; but you have been told, that the husband could not. Odious and impudent aggravation of injury—to add calumny to insult, and outrage to dishonour. From whom, but a man hackneyed in the paths of shame and vice—from whom, but from a man having no compunctions in his own breast to restrain him, could you expect such brutal disregard for the feelings of others—from whom but the cold-blooded veteran seducer—from what, but from the exhausted mind—the habitual community with shame—from what, but the habitual contempt of virtue and of man, could you have expected the arrogance—the barbarity—and folly of so foul—because so false an imputation? He should have reflected, and have blushed, before he suffered so vile a topick of defence to have passed his lips. But, ere you condemn, let him have the benefit of the excuse, if the excuse be true. You must have observed how his counsel fluttered and vibrated, between what they called connivance and injudicious confidence; and how, in affecting to distinguish, they have confounded them both together. If the plaintiff has connived, I freely say to you, do not reward the wretch who has prostituted his wife, and surrendered his own honour—do not compensate the pander of his own shame, and the willing instrument of his own infamy. But as there is no sum so low, to which such a defence, if true, ought not to reduce your verdict, so neither

is any so high, to which such a charge ought not to inflame it, if such a charge be false. Where is the single fact in this case on which the remotest suspicion of connivance can be hung?—Odiously has the defendant endeavoured to make the softest and most amiable feelings of the heart, the pretext of his slanderous imputations. An ancient and respectable prelate, the husband of his wife's sister, chained down to the bed of sickness, perhaps to the bed of death. In that distressing situation, my client suffered that wife to be the bearer of consolation to the bosom of her sister—he had not the heart to refuse her—and the softness of his nature is now charged on him as a crime. He is now insolently told, that he connived at his dishonour, and that he ought to have foreseen, that the mansion of sickness and of sorrow, would have been made the scene of assignation and of guilt. On this charge of connivance, I will not further weary you, or exhaust myself—I will add nothing more, than that it is as false as it is impudent—that in the evidence, it has not a colour of support; and that by your verdict, you should mark it with reprobation. The other subject, namely, that he was indiscreet in his confidence, does, I think, call for some discussion—for I trust, you see, that I affect not any address to your passions, by which you may be led away from the subject—I presume merely to separate the parts of this affecting case, and to lay them item by item before you, with the coldness of detail, and not with any colouring or display of fiction or of fancy.—Honourable to himself was his unsuspected confidence, but fatal must we admit it to have been, when we look to the abuse committed upon it; but where was the guilt of this indiscretion? He did admit this noble lord to pass his threshold as his guest. Now the charge which this noble lord builds on this indiscretion is—"Thou fool! thou hast confidence in my honour—and that was a guilty indiscretion—thou simpleton, thou thoughtest that an admitted and cherished guest, would have respected the laws of honour

and hospitality, and thy indiscretion was guilt. Thou thoughtest that he would have shrunk from the meanness and barbarity of requiting kindness with treachery, and thy indiscretion was guilt."

Gentlemen, what horrid alternative in the treatment of wives would such reasoning recommend? Are they to be immured by worse than eastern barbarity? Are their principles to be depraved—their passions sublimated, every finer motive of action extinguished by the inevitable consequences of thus treating them like slaves? Or is a liberal and generous confidence in them to be the passport of the adulterer, and the justification of his crime?

Honourably but fatally for his own repose, he was neither jealous, suspicious, nor cruel. He treated the defendant with the confidence of a friend—and his wife with the tenderness of a husband. He did leave to the noble marquis the physical possibility of committing against him the greatest crime which can be perpetrated against a being of an amiable heart and refined education. In the middle of the day, at the moment of divine worship, when the miserable husband was on his knees, directing the prayers and thanksgiving of his congregation to their God—that moment did the remorseless adulterer chuse to carry off the deluded victim from her husband—from her child—from her character—from her happiness—as if, not content to leave his crime confined to its miserable aggravations, unless he also gave it a cast and colour of factitious sacrilege and impiety. Oh! how happy had it been when he arrived at the bank of the river with the ill-fated fugitive, ere yet he had committed her to that boat, of which, like the fabled barque of Styx, the exile was eternal. How happy at that moment, so teeming with misery and with shame, if you, my lord, had met him and could have accosted him in the character of that good genius which had abandoned him. How impressively might you have pleaded the cause of the father, of the child, of the mother, and even of the worthless defendant himself. You would have said, "Is this the

requit that you are about to make for the respect and kindness, and confidence in your honour? Can you deliberately expose this young man in the bloom of life, with all his hopes yet before him. Can you expose him, a wretched outcast from society, to the scorn of a merciless world? Can you set him adrift upon the tempestuous ocean of his own passions, at this early season when they are most headstrong; and can you cut him out from the moorings of those domestic obligations, by whose cable he might ride at safety from their turbulence? Think of, if you can conceive it, what a powerful influence arises from the sense of home, from the sacred religion of the heart in quelling the passions, in reclaiming the wanderings, in correcting the disorders of the human heart. Do not cruelly take from him the protection of these attachments. But if you have no pity for the father, have mercy at least upon his innocent and helpless child. Do not condemn him to an education scandalous or neglected—do not strike him into that most dreadful of all human conditions, the orphanage that springs not from the grave, that falls not from the hand of Providence, or the stroke of death; but comes before its time anticipated and inflicted by the remorseless cruelty of parental guilt. For the poor victim herself, not yet immolated, while yet balancing upon the pivot of her destiny, your heart could not be cold, nor your tongue be wordless. You would have said to him, Pause, my lord, while there is yet a moment for reflection. What are your motives, what your views, what your prospects from what you are about to do? You are a married man, the husband of the most amiable and respectable of women; you cannot look to the chance of marrying this wretched fugitive. Between you and such an event there are two sepulchres to pass. What are your inducements? Is it love, think you? No. Do not give that name to any attraction you can find in the faded refuse of a violated bed. Love is a noble and generous passion; it can be founded only on a pure and ardent friendship, on an exalted

respect, on an implicit confidence in its object. Search your heart; examine your judgment. Do you find the semblance of any one of these sentiments to bind you to her? What could degrade a mind to which nature or education had given port or stature, or character, into a friendship for her? Could you repose upon her faith? Look in her face, my lord: she is at this moment giving you the violation of the most sacred of human obligations as the pledge of her fidelity. She is giving you the most irrefragable proof that as she is deserting her husband for you, so she would without a scruple abandon you for another. Do you anticipate any pleasure you might feel in the possible event of your becoming the parents of a common child? She is at this moment proving to you that she is as dead to the sense of parental as of conjugal obligation, and that she would abandon your offspring to morrow, with the same facility with which she now deserts her own. Look then at her conduct, as it is, as the world must behold it, blackened by every aggravation that can make it either odious or contemptible, and unrelieved by a single circumstance of mitigation that could palliate its guilt, or retrieve it from abhorrence.

“ Mean, however, and degraded as this woman must be, she will still (if you take her with you) have strong and heavy claims upon you.—The force of such claims does certainly depend upon circumstances; before, therefore, you expose her fate to the dreadful risk of your caprice or ingratitude, in mercy to her, weigh well the confidence she can place in your future justice and honour. At that future time, much nearer than you think, by what topicks can her cause be pleaded to a sated appetite, to a heart that repels her, to a just judgment in which she never could have been valued or respected? Here is not the case of an unmarried woman, with whom a pure and generous friendship may insensibly have ripened into a more serious attachment, until at last her heart became too deeply pledged to be reassumed. If so circumstanced, without any husband to betray, or child to de-

sert, or motive to restrain, except what related solely to herself, her anxiety for your happiness made her overlook every other consideration, and commit her destiny to your honour; in such a case (the strongest and the highest that man's imagination can suppose) in which you at least could see nothing but the most noble and disinterested sacrifice; in which you could find nothing but what claimed from you the most kind and exalted sentiment of tenderness, and devotion, and respect; and in which the most fastidious rigour would find so much more subject for sympathy than blame. Let me ask you, could you, even in that case, answer for your own justice and gratitude? I do not allude to the long and pitiful catalogue of paltry adventures, in which it seems your time has been employed.—The coarse and vulgar succession of casual connexions, joyless, loveless, and unendeared. But do you not find upon your memory some trace of an engagement of the character I have sketched? Has not your sense of what you would owe in such a case, and to such a woman, been at least once put to the test of experiment? Has it not once at least happened, that such a woman, with all the resolution of strong faith, flung her youth, her hope, her beauty, her talent, upon your bosom, weighed you against the world, which she found but a feather in the scale, and took you as an equivalent? How did you then acquit yourself? Did you prove yourself worthy of the sacred trust reposed in you? Did your spirit so associate with hers, as to leave her no room to regret the splendid and disinterested sacrifice she had made? Did her soul find a pillow in the tenderness of yours, and a support in its firmness? Did you preserve her high in her own consciousness, proud in your admiration and friendship, and happy in your affection? You might have so acted, and the man that was worthy of her, would have perished rather than not so act, as to make her delighted with having confided so sacred a trust to his honour—did you so act? Did she feel that, however precious to your heart, she was still more exalted and honoured in your reverence and respect? Or did

she find you coarse and paltry, fluttering and unpurposed, unfeeling, and ungrateful? You found her a fair and blushing flower, its beauty and its fragrance bathed in the dews of heaven. Did you so tenderly transplant it, as to preserve that beauty and fragrance unimpaired? Or did you so rudely cut it as to interrupt its nutriment, to waste its sweetness, to blast its beauty, to bow down its faded and sickly head? And did you at last fling it like "a loathsome weed away?" If then to such a woman, so clothed with every title that could ennoble, and exalt, and endear her to the heart of man, you could be cruelly and capriciously deficient, how can a wretched fugitive like this, in every point her contrast, hope to find you just? Send her then away. Send her back to her home, to her child, to her husband, to herself." Alas there was none to hold such language to this noble defendant; he did not hold it to himself. But he paraded his despicable prize in his own carriage, with his own retinue, his own servants. This veteran Paris, hawked his enamoured Helen, from this western quarter of the island, to a seaport in the eastern, crowned with the acclamations of a senseless and grinning rabble, glorying and delighted, no doubt, in the keering and scoffing admiration of grooms, and ostlers, and waiters, as he passed.

In this odious contempt of every personal feeling, of public opinion, of common humanity, did he parade this woman to the seaport, whence he transported his precious cargo, to a country where her example may be less mischievous than in her own; where I agree with my learned colleague, in heartily wishing he may remain with her for ever. We are too poor, too simple, too unadvanced a country, for the example of such achievements. When the relaxation of morals, is the natural growth and consequence of the great progress of arts and wealth, it is accompanied by a refinement, that makes it less gross and shocking. But for such palliations we are at least a century too young. I advise you, therefore, most earnestly to rebuke this budding mischief, by letting the wholesome vigour and chastisement of a liberal verdict, speak

what you think of its enormity. In every point of view in which I can look at the subject, I see you are called upon to give a verdict, of bold, and just, and indignant, and exemplary compensation. The injury of the plaintiff demands it from your justice. The delinquency of the defendant provokes it by its enormity. The rank on which he has relied for impunity calls upon you to tell him, that crime does not ascend to the rank of the perpetrator, but the perpetrator sinks from his rank, and descends to the level of his delinquency. The style and mode of his defence, is a gross aggravation of his conduct, and a gross insult upon you. Look upon the different subjects of his defence, as you ought, and let him profit by them as he deserves. Vainly presumptuous upon his rank, he wishes to overawe you by the despicable consideration. He next resorts to a cruel aspersion upon the character of the unhappy plaintiff, whom he had already wounded, beyond the possibility of reparation. He has ventured to charge him with connivance. As to that, I will only say, gentlemen of the jury, do not give this vain boaster, a pretext for saying, that if the husband connived in the offence, the jury also connived in the reparation. But he has pressed another curious to-pick upon you. After the plaintiff had cause to suspect his designs, and the likelihood of their being fatally successful, he did not then act precisely as he ought. Gracious God, what an argument, for him to dare to advance ! It is saying thus to him : " I abused your confidence, your hospitality ; I laid a base plan, for the seduction of the wife of your bosom ; I succeeded at last, so as to throw in upon you that most dreadful of all suspicions to a man fondly attached, proud of his wife's honour, and tremblingly alive to his own ; that you were possibly a dupe to the confidence in the wife, as much as in the guest. In this so pitiable distress, which I myself had studiously and deliberately contrived for you ; between hope and fear, and doubt and love, and jealousy and shame ; one moment shrinking from the cruelty of your suspicion, the next fired with indignation, at the facility and cre-

dulity of your acquittal. In this labyrinth of doubt, in this phrensy of suffering, you were not collected and composed. You did not act as you might have done, if I had not worked you to madness; and upon that very madness which I have inflicted upon you, upon the very completion of my guilt, and of your misery, I will build my defence. You will not act critically right, and therefore are unworthy of compensation." Gentlemen, can you be dead to the remorseless atrocity of such a defence! And shall not your honest verdict mark it as it deserves? But let me go a little further; let me ask you, for I confess I have no distinct idea, of what should be the conduct of a husband so placed, and who is to act critically right: Shall he lock her up, or turn her out? Or enlarge or abridge her liberty of acting as she pleases? Oh, dreadful Areopagus of the tea table! How formidable thy inquests, how tremendous thy condemnations! In the first case he is brutal and barbarous, an odious eastern despot. In the next; what! turn an innocent woman out of his house, without evidence or proof, but merely because he is vile and mean enough, to suspect the wife of his bosom, and the mother of his child! Between these extremes, what intermediate degree is he to adopt? I put this question to you, do you at this moment, uninfluenced by any passion, as you now are, but cool and collected, and uninterested as you must be, do you see clearly this proper and exact line, which the plaintiff should have pursued? I much question if you do. But if you did or could, must you not say, that he was the last man from whom you should expect the coolness to discover, or the steadiness to pursue it? And yet this is the outrageous and insolent defence, that is put forward to you. My miserable client, when his brain was on fire, and every fiend of hell was let loose upon his heart, he should then, it seems, have placed himself before his mirror, he should have taught the stream of agony, to flow decorously down his forehead. He should have composed his features to harmony, he should have writhed with grace, and groaned in melody. But look farther

to this noble defendant, and his honourable defence; the wretched woman is to be successively the victim of seduction, and of slander. She, it seems, received marked attentions. Here, I confess, I felt myself not a little at a loss. The witnesses could not describe what these marked attentions were, or are. They consisted not, if you believe the witness that swore to them, in any personal approach or contact whatsoever, nor in any unwarrantable topicks of discourse. Of what materials then were they composed? Why, it seems, a gentleman had the insolence at table, to propose to her a glass of wine, and she, oh most abandoned lady! instead of flying like an angry parrot, at his head, and besmirching and bescratching him for his insolence, tamely and basely replies: "port, sir, if you please." But gentlemen, why do I advert to this folly, this nonsense? Not surely to vindicate from censure, the most innocent and the most delightful intercourse of social kindness, of harmless and cheerful courtesy; "where virtue is, these are most virtuous." But I am soliciting your attention, and your feeling, to the mean and odious aggravation—to the unblushing and remorseless barbarity, of falsely aspersing the wretched woman he had undone. One good he has done, he has disclosed to you the point in which he can feel; for, how imperious must that avarice be, which could resort to so vile an expedient of frugality? Yes, I will say, that with the common feelings of a man, he would have rather suffered his 30,000 a year, to go as compensation to the plaintiff, than saved a shilling of it by so vile an expedient of economy. He would rather have starved with her in a jail, he would rather have sunk with her into the ocean, than have so vilified her—than have so degraded himself. But it seems, gentlemen, and indeed you have been told, that long as the course of his gallantries has been, and he has grown gray in the service, it is the first time he has been called upon for damages. To how many might it have been fortunate, if he had not that impunity to boast? Your verdict will, I trust, put an end to that encouragement to

guilt, that is built upon impunity. The devil, it seems, has saved the noble marquis harmless in the past; but your verdict will tell him the term of that indemnity is expired, that his old friend and banker, has no more effects in his hands, and that if he draws any more upon him, he must pay his own bills himself. You will do much good by doing so. You may not enlighten his conscience, nor touch his heart, but his frugality will understand the hint. It will adopt the prudence of age, and deter him from pursuits, in which, though he may be insensible of shame, he will not be regardless of expense. You will do more, you will not only punish him in his tender point, but you will weaken him in his strong one, his money. We have heard much of this noble lord's wealth, and much of his exploits, but not much of his accomplishments or his wit. I know not that his verses have soared even to the poet's corner. I have heard it said that an ass laden with gold, could find his way through the gate of the strongest city. But gentlemen, lighten the load upon his back, and you will completely curtail the mischievous faculty of a grave animal, whose momentum lies not in his agility, but his weight, not in the quantity of motion, but the quantity of his matter. There is another ground, on which you are called upon to give most liberal damages, and that has been laid by the unfeeling vanity of the defendant. This business has been marked by the most elaborate publicity. It is very clear that he has been allured by the glory of the chace, and not the value of the game. The poor object of his pursuit, could be of no value to him, or he could not have so wantonly, and cruelly, and unnecessarily abused her. He might easily have kept this unhappy intercourse, an unsuspected secret. Even if he wished for her elopement, he might easily have so contrived it, that the place of her retreat would be profoundly undiscoverable; yet, though even the expense, a point so tender to his delicate sensibility, of concealing, could not be a one fortieth of the cost of publishing her, his vanity decided him

in favour of glory and publicity. By that election he has in fact put forward the Irish nation, and its character, so often, and so variously calumniated, upon its trial before the tribunal of the empire; and your verdict will this day decide, whether an Irish jury, can feel with justice, and spirit, upon a subject that involves conjugal affection and comfort, domestick honour and repose—the certainty of issue—the weight of publick opinion—the gilded and presumptuous criminality of overweening rank and station. I doubt not, but he is at this moment reclined on a silken sofa, anticipating that submissive and modest verdict, by which you will lean gently on his errors; and expecting, from your patriotism, no doubt, that you will think again, and again, before you condemn any great portion of the immense revenue of a great absentee, to be detained in the nation that produced it, instead of being transmitted, as it ought, to be expended in the splendour of another country. He is now probably waiting for the arrival of the report of this day, which I understand a famous note-taker has been sent hither to collect. (Let not the gentleman be disturbed.) Gentlemen, let me assure you, it is more, much more the trial of you, than of the noble marquis, of which this imported recorder, is at this moment collecting the materials. His noble employer is now expecting a report to the following effect: “Such a day came on to be tried at Ennis, by a special jury, the cause of Charles Massy, against the most noble, the marquis of Headfort. It appeared, that the plaintiff’s wife, was young, beautiful, and captivating. The plaintiff himself, a person, fond of this beautiful creature, to distraction, and both doating on their child; but the noble marquis approached her; the plume of glory nodded on his head. Not the goddess Minerva, but the goddess Venus had lighted upon his casque, “the fire that never tires—such as many a lady gay had been dazzled with before.” At the first advance she trembled, at the second she struck to the redoubted son of Mars, and pupil of Venus. The jury saw it was not his fault;

(it was an Irish jury) they felt compassion for the tenderness of the mother's heart, and for the warmth of the lover's passion. The jury saw on the one side a young entertaining gallant, on the other a beauteous creature, of charms irresistible. They recollected, that Jupiter had been always successful in his amours, although Vulcan had not always escaped some awkward accidents. The jury was composed of fathers, brothers, husbands—but they had not the vulgar jealousy, that views little things of that sort with rigour, and wishing to assimilate their country in every respect to England, now that they are united to it, they, like English gentlemen, returned to their box, with a verdict of sixpence damages and sixpence costs." Let this be sent to England. I promise you, your odious secret will not be kept better than that of the wretched Mrs. Massy. There is not a bawdy chronicle in London, in which the epitaph, which you would have written on yourselves, will not be published, and our enemies will delight in the spectacle of our precious depravity, in seeing that we can be rotten before we are ripe. I do not suppose it, I do not, cannot, will not, believe it. I will not harrow up myself with the anticipated apprehension.

There is another consideration, gentlemen, which I think most imperiously, demands even a vindictive award of exemplary damages, and that is the breach of hospitality. To us peculiarly does it belong to avenge the violation of its altar. The hospitality of other countries is a matter of necessity or convention: in savage nations of the first, in polished of the latter: *but the hospitality of an Irishman* is not the running account of posted and legered courtesies, as in other countries;—it springs like all his qualities, his faults, his virtues—directly from his heart. The heart of an Irishman is by nature bold, and he confides; it is tender, and he loves; it is generous, and he gives; it is social, and he is hospitable. This sacrilegious intruder has prophaned the religion of that sacred altar so elevated in our worship, so precious to our devotion; and it is our privilege to

avenge the crime. You must either pull down the altar, and abolish the worship, or you must preserve its sanctity undebased. There is no alternative between the universal exclusion of all mankind from your threshold, and the most rigorous punishment of him who is admitted and betrays. This defendant has been so trusted, has so betrayed, and you ought to make him a most signal example.

Gentlemen, I am the more disposed to feel the strongest indignation and abhorrence at this odious conduct of the defendant, when I consider the deplorable condition to which he has reduced the plaintiff, and perhaps the still more deplorable one that he has in prospect before him. What a progress has he to travel through, before he can attain the peace and tranquillity which he has lost? How like the wounds of the body are those of the mind! How burning the fever! How painful the suppuration! How slow, how hesitating, how relapsing the process to convalescence! Through what a variety of suffering, what new scenes and changes, must my unhappy client pass, ere he can reattain, should he ever reattain, that health of soul of which he has been despoiled, by the cold and deliberate machinations of this practised and gilded seducer? If, instead of drawing upon his incalculable wealth for a scanty retribution, you were to stop the progress of his despicable achievements by reducing him to actual poverty, you could not even so, punish him beyond the scope of his offence, nor reprise the plaintiff beyond the measure of his suffering. Let me remind you, that in this action, the law not only empowers you, but that its policy commands you to consider the publick example, as well as the individual injury, when you adjust the amount of your verdict. I confess I am most anxious that you should acquit yourselves worthily upon this important occasion. I am addressing you as fathers, husbands, brothers. I am anxious that a feeling of those high relations should enter into, and give dignity to your verdict. But I confess it, I feel a tenfold solicitude when I remem-

ber that I am addressing you as my countrymen, as Irishmen, whose characters as jurors, as gentlemen, must find either honour or degradation in the result of your decision. Small as must be the distributive share of that national estimation, that can belong to so unimportant an individual as myself, yet do I own I am tremblingly solicitous for its fate. Perhaps it appears of more value to me, because it is embarked on the same bottom with yours; perhaps the community of peril, of common safety, or common wreck gives a consequence to my share of the risk, which I could not be vain enough to give it, if it were not raised to it by that mutuality. But why stoop to think at all of myself, when I know that you, gentlemen of the jury, when I know that our country itself are my clients on this day, and must abide the alternative of honour, or of infamy as you shall decide. But I will not despond: I will not dare to despond. I have every trust, and hope, and confidence in you. And to that hope I will add my most fervent prayer to the God of all truth and justice, so to raise and enlighten, and fortify your minds, that you may so decide, as to preserve to yourselves while you live, the most delightful of all recollections, that of acting justly, and to transmit to your children the most precious of all inheritances, the memory of your virtue.

MR. FOX'S SPEECH

IN THE HOUSE OF COMMONS, JUNE 8, 1784, ON THE SCRUTINY OF THE WESTMINSTER ELECTION.

AT the close of the warmly contested election of Westminster in the year 1784, Mr. Fox had on the face of the poll a majority of two hundred and thirty-five votes over his opponent, sir Cecil Wray. Notwithstanding this majority, the high bailiff refused to make a return in favour of Mr. Fox, alleging that he had reasons to suspect the validity of many of his votes; and therefore, he could not conscientiously do it without a scrutiny.

As soon as parliament met, Mr. Lee, late attorney general, moved, "*That the high bailiff of Westminster, on the day upon which the writ of election expired, ought to have returned two citizens to serve in parliament for that city.*" This resolution being disposed of by ministers moving the previous question, it was succeeded by one which was carried, '*commanding the attendance of the high bailiff at the bar of the house.*' After an elaborate discussion by counsel in behalf of each party, the motion was renewed, "*That the high bailiff be directed forthwith to make his return.*" On this motion Mr. Fox delivered the annexed speech. The motion, however, was negatived, and then it was moved and carried, "*That the high*

bailiff do proceed in the scrutiny with all possible despatch." Thus the matter rested during the session. Mr. Fox did not in consequence lose his seat in parliament. He came in through the kindness of a friend for a small borough in the Orkneys; which gave occasion to Mr. Pitt to remark with the causticity of sarcasm he sometimes indulged, "that his great antagonist had undergone a sort of banishment; being driven by the impulse of patriotick indignation, as an exile from his native clime, to seek refuge in the stormy and desolate shores of the ultima Thule."

Early in the next session, the subject of the election was revived, by a motion similar to the one of the preceding session, *commanding the bailiff to make a return.* It too was rejected. But the friends of Mr. Fox were not discouraged by these repeated defeats. They renewed the same motion several times afterwards, and ultimately prevailed. Mr. Fox took his seat for Westminster.

SPEECH, &c.

MR. SPEAKER,

BEFORE I enter upon the consideration of this question, I cannot help expressing my surprise, that those who sit over against me [*the ministry*] should have been hitherto silent in this debate. Common candour might have taught them to have urged whatever objections they have to urge, against the motion of my honourable friend before this time; because in that case I should have had an opportunity of replying to their arguments, and sure it would have been fair to allow me the slight favour of being the last speaker upon such a subject. But, sir, I have no reason to expect indulgence, nor do I know that I shall meet with bare justice in this house.* Sir, I say that I have no reason to expect *indulgence*, nor do I

* Expression of disapprobation from the ministerial side of the house.

know that I shall meet with *bare justice* in this house.†

Mr. Speaker, there is a regular mode of checking any member of this house, for using improper words in a debate, and it is to move, to have the improper words taken down by the clerk, for the purpose of censuring the person who has spoken them. If I have said any thing unfit for this house to hear, or for me to utter—If any gentleman is offended by any thing that fell from me, and has sense enough to point out, and spirit to correct that offence, he will adopt that parliamentary and *gentleman-like* mode of conduct; and that he may have an opportunity of doing so, I again repeat, *That I have no reason to expect INDULGENCE, nor do I know that I shall meet with BARE JUSTICE in this house.*

Sir, I am warranted in the use of these words, by events and authorities that leave little to be doubted, and little to be questioned. The treatment this business has received within these walls, the extraordinary proceedings which have sprung from it, the dispositions which have been manifested in particular classes of men, all concur to justify the terms I have adopted, and to establish the truth of what I have asserted.

If the declaration I have made, had happened not to have been supported by the occurrences I allude to, the very consideration of Mr. Grenville's bill is of itself sufficient to vindicate what I have said. That bill, sir, originated in a belief, that this house in the aggregate was an unfit tribunal to decide upon contested elections. It viewed this house, as every popular assembly should be viewed, as a mass of men capable of political dislike and personal aversion; capable of too much attachment and too much animosity; capable of being biassed by weak and by wicked motives; liable to be governed by ministerial influence, by caprice, and by corruption. Mr. Grenville's bill viewed this house as endued with these

† Expression of disapprobation repeated.

capacities, and judging it therefore incapable of determining upon controverted elections with impartiality, with justice, and with equity, it deprived it of the means of mischief, and formed a judicature as complete and ample perhaps as human skill can constitute.* That I am debarred the benefits of that celebrated bill is clear beyond all doubt, and thrown entirely upon the mercy, or if you please, upon the wisdom of this house. Unless then men are to suppose that human nature is totally altered within a few months—unless we can be so grossly credulous, as to imagine that the present is purged of all the frailties of former parliaments—unless I am to surrender my understanding, and blind myself to the extraordinary conduct of this house, in this extraordinary business, for the last fortnight—I may say, and say with truth, “*that I expect no indulgence, nor do I know that I shall meet with bare justice in the house.*”

There are in this house, sir, many persons, to whom I might upon every principle of equity, fairness, and reason, object as judges to decide upon my cause, not merely from their acknowledged enmity to me, to my friends, and to my politicks, but from their particular conduct upon this particular occasion. To a noble Lord,† who spoke early in this debate, I might rightly object as a judge to try me, who from the fulness of his prejudice to me and predilection for my opponents, asserts things in direct defiance of the evidence which has been given at your bar. The noble lord repeats again that “tricks” were used at my side in the election, although he very properly omits the epithet which preceded that term when he used it in a former debate. But does it appear in evidence that any tricks

* Mr. Grenville’s bill enacted, that the persons to try disputed elections shall be drawn out of a glass to the number of forty-nine; that the parties in the dispute shall strike from these names alternately without ascribing any reason until they reduce the number to thirteen; that these thirteen shall be governed by positive law, and sworn upon oath to administer strict justice.

† Lord Mulgrave.

were practised on my part? Not a word. Against him therefore who, in the teeth of the depositions on your table, is prompted by his enmity towards me, to maintain what the evidence (the ground this house is supposed to go upon) absolutely denies, I might object with infinite propriety as a judge in this cause.

There is another judge, sir, to whom I might object with greater reason if possible than to the last. A person evidently interested in increasing the numbers of my adversaries upon the poll, but who has relinquished his right as an elector of Westminster, that his voting may not disqualify him from being a judge upon the committee to decide this contest. A person too, Sir, who in the late election scrupled not to act as an agent, an avowed and indeed an active agent to my opponents.* Is there any interruption, sir,? I hope not. I am but stating a known fact, that a person who is to pronounce a judgment this night in this cause, avoided to exercise one of the most valuable franchises of a British citizen, only that he might be a nominee for my adversaries; concluding that his industry upon the committee would be of more advantage to their cause, than a solitary vote at the election. This, sir, I conceive would be a sufficient objection to him as a judge to try me.

A third person there is, whom I might in reason challenge upon this occasion.—A person of a sober demeanour, who with great diligence and exertion in a very respectable and learned profession, has raised himself to considerable eminence;† a person who fills one of the first seats of justice in this kingdom, and who has long discharged the functions of a judge in an inferiour but very honourable situation. This person, sir, has upon this day professed and paraded much upon the impartiality with which he should dis-

* Lord Mahon started up in much agitation, and exposed himself to the house as the person alluded to. He appeared inclined to call Mr. Fox to order, but his friends prevented him.

† Mr. Kenyon, the master of the rolls.

charge his conscience in his judicial capacity as a member of parliament in my cause. Yet this very person, insensible to the rank he maintains, or should maintain, in this country, abandoning the gravity of his character as a member of the senate, and losing sight of the sanctity of his station both in this house and out of it, even in the very act of delivering a judicial sentence, descends to minute and mean allusions to former politicks—comes here stored with the intrigues of past times, and instead of the venerable language of a good judge and a great lawyer, attempts to entertain the house by quoting, or by misquoting, words, supposed to have been spoken by me in the heat of former debates, and in the violence of contending parties, when my noble friend and I opposed each other. This demure gentleman, sir, this great lawyer, this judge of law, and equity, and constitution, enlightens this subject, instructs and delights his hearers, by reviving this necessary intelligence, that when I had the honour of first sitting in this house for Midhurst, *I was not full twenty-one years of age*, and all this he does for the honourable purpose of sanctifying the high bailiff of Westminster in defrauding the electors of their representation in this house, and robbing me of the honour of asserting and confirming their right by sitting as their representative. Against him, therefore, sir, and against men like him, I might justly object as a judge or as judges to try my cause; and it is with perfect truth I once more repeat, *“That I have no reason to expect indulgence, nor do I know that I shall meet with bare justice in this house.”*

Sir, I understand that the learned gentleman I have just alluded to (I was not in the house during the first part of his speech) has insinuated that I have no right to be present during this discussion and that hearing me is an indulgence. Against the principle of that assertion, sir, and against every syllable of it, I beg leave, in the most express terms, directly to protest. I maintain, that I not only have a right to *speak*, but a positive and clear right to *vote* upon this occasion; and I assure the house, that nothing but the declaration I have made in the first stage of this business

should prevent me from doing so. As to myself, if I were the only person to be aggrieved by this proceeding, if the mischief of it extended not beyond *me*, I should rest thoroughly and completely satisfied with the great and brilliant display of knowledge and abilities which have been exhibited by the learned gentleman, who appeared for me and for my constituents at your bar.* If I alone was interested in the decision of this matter, their exertions, combined with the acute and ingenious treatment this question has received from many gentlemen on this side of the house, whose arguments are as learned as they are evidently unanswerable, would have contented me. But a sense of duty superiour to all personal advantage calls on me to exert myself at this time. Whatever can best encourage and animate to diligence and to energy; whatever is most powerful and influencing upon a mind not callous to every sentiment of gratitude and honour, demand at this moment the exercise of every function and faculty that I am master of. This, sir, is not my cause alone; it is the cause of the English constitution; the cause of the electors of this kingdom, and it is in particular, the especial cause of the most independent, the most spirited, the most kind and generous body of men that ever concurred upon a subject of publick policy.—It is the cause of the electors of Westminster. The cause of those who upon many trials have supported me against hosts of enemies; of those who upon a recent occasion, when every art of malice, of calumny, and corruption,—every engine of an illiberal and shameless system of government—when the most gross, and monstrous fallacy that ever duped and deceived a credulous country, have been propagated and worked with all imaginable subtlety and diligence for the purpose of rendering me unpopular throughout the empire; have with a steadiness, with a sagacity, with a judgment becoming men of sense and spirit, defeated all the miserable malice of my enemies; vindicated themselves from the charge of caprice, and changeableness, and fluctuation; and

* Mr. Erskine.

with a generosity that binds me to them by every tie of affection, supported me through the late contest and accomplished a victory against all the arts and powers of the basest system of oppression, that ever destined the overthrow of any individual.

If by speaking in this house (where many perhaps may think I speak too much) I have acquired any reputation; if I have any talents, and that attention to publick business has matured or improved those talents into any capability of solid service; the present subject and the present moment, beyond any other period of my life, challenge and call them into action; when added to the importance of this question upon the English constitution, combined with the immediate interest I feel personally in the fate of it, I am impelled by the nobler, and more forcible incitement of being engaged in the cause of those to whom the devotion of all I have of diligence or ability would be but a slight recompense for their zeal, constancy, firm attachment, and unshaken friendship to me upon all occasions, and under all circumstances.

There are two leading points of view, in which this question should be considered. The first is, whether the high bailiff of Westminster has had sufficient evidence, to warrant his granting a scrutiny, *supposing that he possessed a legal discretion to grant it.*—The second, whether any returning officer can *by law* grant a scrutiny, even upon the completest evidence of its necessity, which scrutiny cannot commence till after the day on which the writ is returnable.

It is of little consequence in which order the question is taken up—But first I shall proceed upon the evidence.

The great defence of the high bailiff is built upon the circumstance of sir Cecil Wray and his agents having furnished him with regular lists of bad votes on my part—and to prove that these lists were delivered, they have brought a witness who *knows not a syllable of the truth of the contents of the list.*—The witness who drew the affidavit which affirms those bad votes to

have polled for me, upon cross examination appears equally ignorant of the *truth* of the affidavits, and therefore the burthen of the proof rested upon the evidence of Affleck, whose testimony, nevertheless, after four hours examination, is expunged from your books as inadmissible. Expunged, however, though it is, I wish the house to recollect the answers he gave concerning the descriptions of the bad voters which are imputed to me and to the stated number of them. The number is said to be 143, and the house will recollect that although I repeatedly pressed the witness to name some of them, *he could not even name one*. I questioned Affleck particularly, whether the 143 were persons who did not exist where they pretended to reside: his answer was that some did reside in the streets as mentioned in the poll books, and that others could not be found at all. Those who could not be found at all, if any such there were, might fairly be deemed bad votes, but the other class of voters involved a question of law, and I submit to the house, whether if the evidence of this man, instead of being rejected as incompetent, had actually been admitted, the whole tenour of it instead of exculpating would not in the strongest sense tend to criminate the high bailiff. Had he known his duty, or was disposed to discharge it, this he would have said to such a reporter. "You may be, and most likely are, interested in deceiving me. After much argument and discussion, I as the sole judge in this court have admitted these to be legal votes, which you (of whom I know nothing) affirm to be only lodgers or non-residents. My situation is too solemn to be affected by such information, and therefore I dismiss it as unfit for me to proceed upon."

This should have been the high bailiff's conduct, but his conduct is the exact reverse of it. He receives this species of information, and from these sort of men: and not only this, but accepts affidavits imputing bribery to some persons who canvassed for me, acknowledging at the same moment that he had no cognizance of bribery, and never once inquires into the truth of the charge, nor whether

any credit is due to the deposer, nor even who the deposer is. All this the high bailiff does in concert with my adversaries, secretly, collusively, without even once giving me or any one of my agents the very slightest idea that any such intercourse had subsisted between him [the Judge of this court] and one of the parties litigating *that* upon which he was to exercise his judicial function.

To have received such information with the least attention was in itself criminal enough, but studiously, cautiously, and deliberately to have concealed it from me, was base and wicked in the extreme. Had I been apprized of these machinations, I might have established the falsehood of every accusation; and surely, if justice had been the object of the high bailiff, he would not rest one moment until he communicated to me the burthen of these informations and affidavits, especially if he meant to overturn the whole tide of precedents, and to innovate upon the practice of all the returning officers that ever lived in this kingdom, in granting a scrutiny to commence after the return of the writ. If truth was his aim, the obvious mode of ascertaining it was, to have given the other party an opportunity of knowing the charges brought against them, to let them have the chance of contradicting their accusers, and if we failed in falsifying these informations, the high bailiff would have had this presumption in his favour, that it was only because we could not. But, sir, not this nor any thing like it, did the high bailiff of Westminster. So far from acting like an impartial judge, he appears to have been the agent, or rather the mere tool of my opponents, and every syllable of these informations upon which he acted might have been, for aught he knew, the vilest mass of falsehood and perjury that ever thwarted the course of justice. I say then, sir, if the high bailiff absolutely possessed a legal discretion in granting a scrutiny, to have granted it upon *this sort* of evidence, and under these circumstances was, to say no worse of it, an act that cannot be justi-

fied upon any obvious principle of law, reason, common sense, or common equity.

But what will the candid part of the house think of this high bailiff, when they consider that the grounds of his vindication at your bar, differ as much as light and darkness, from his vindication in the vestry of Covent Garden upon granting the scrutiny? And here, sir, I have to lament that the paper which he read to this house as his defence, which the gentlemen opposite to me [*the ministry*] for reasons as honourable perhaps to themselves as to the high bailiff so strenuously opposed being laid on the table, is now impossible to be produced. That paper, sir, would have enabled me from his own words, to have proved to you, that the principle he avowed at your bar, as the rule that governed him in this business, is exactly and directly the very reverse of the principle he pretended to act upon at the time of granting the scrutiny. Fortunately, however, this fact is established in clear unquestioned evidence before you. Mr. O'Bryen's testimony is complete and decisive to that point—his words were, “that the high bailiff in the vestry upon granting the scrutiny, disclaimed the informations delivered to him by sir Cecil Wray and his agents, that he replied with peevishness and some displeasure to Sir Cecil for having mentioned them;—that he declared he believed he had never read them; certainly never with any attention; that he threw them aside unnoticed; that they had not the least operation upon his judgment; and that they did not, in the very slightest sense, influence his determination in granting the scrutiny.” These were his words. Atkinson, upon cross examination, was obliged to acknowledge this, and Grojan's want of memory upon it, goes of itself a great way to establish the truth, if it required further corroboration.

Now let the house and the world judge of this high bailiff, who, upon granting the scrutiny, affects to be insulted at the *supposition* of his acting upon this *ex parte* information, and yet rests *all* his defence at the bar of this house upon that very *ex parte* infor-

mation which but a fortnight before he disclaimed and despised.

Without adverting to his shameful and scandalous conduct (which, if he had one spark of feeling would make him blush to show his face, much less to avow the act) in holding this fraudulent intercourse with my enemies, cautiously concealing that any such intercourse subsisted between them, treacherously betraying the cause of justice which his situation bound him to support inviolate, and basely lending himself to one party for the ruin of the other; can any thing better show his iniquity than varying the grounds of his defence according to the variation of scene, and the pressure of exigency. This continual shifting demonstrates that he has no honest defence to make—put the most favourable construction possible upon his conduct, and the best of the alternatives marks him a hypocrite at the least. If he has spoken truth in the *vestry*, he is an arrant liar before *this house*—or if he vindicates himself before *you* upon pure principles, he has grossly and wickedly deceived *me* and *all* who heard the contempt he expressed in the vestry for that information, upon which he has expatiated at the bar of this house with such extraordinary reverence.

So much for the consistency of the high bailiff, respecting his alleged motives in granting a scrutiny.

It is said upon the other side of the house that the poll was not a scrutiny, and said, in express contradiction to the evidence produced at your bar. Never was a poll a scrutiny, unless the poll in question was such. It is established by respectable testimony at your bar, that the poll was an *absolute scrutiny*. It is proved that the parish books were constantly at the hustings and each voter's name, profession, and description, collated with the books. It is proved, that when the names of voters could not always be found in the parish books (which was often the case, and yet the votes perfectly legal) a gentleman in the interest of each side frequently went to the very street in which the voter said he lived—that the vote was

suspended until that inquiry was made, and that the decision was always governed by the report of the inquirers in such case. Was this, or was it not a scrutiny?—But it is said that the poll was *crammed* at one time, and hence an inference is drawn that the poll was not a scrutiny. This is strange reasoning, surely. To support this inference it should be proved that votes were excepted to, and yet admitted in the hurry without examination or inquiry. Does this appear to be the case?—Nothing like it. With all Mr. Grojan's disposition to shelter the high bailiff, with all his power of memory at one time, and his want of it at another, does he assert any such thing? No, sir, he could not with truth, and even he could not venture upon *this* without truth. Did you ever hear or did such a thing ever happen as that a returning officer of his own accord should reject any votes not excepted to by the contending parties? Certainly not. These votes, therefore, in whose legality the candidates themselves agreed must be justly presumed by the high bailiff to be unexceptionable, and from hence to suppose that the poll was no scrutiny, is weak in the extreme. In the early part of the election it was the natural wish of each candidate to get upon the head of the poll. Each brought up as many friends as possible, and this accounts for what they call cramming the poll. Respecting the high bailiff's difficulty in forming an opinion as to which of the two had the greater number of legal votes; had *I* been lowest upon the poll at the close of the election, there might have been some little colour for his affectation of scruples. Why? because upon the days when the poll was *most* *crammed*, when the *greatest* numbers polled, and when there was least inquiry and least examination into their legality, *Sir Cecil Wray had a very great majority over me*. I began to gain upon my adversary, not when *thousands* polled of a day, but when only a few *hundreds*, and less than a hundred polled on each day—at a time when there was sufficient leisure to scrutinize the votes, and when the most

acute, the most jealous and sharp inquiry took place, as to the qualification of each voter that was perhaps ever practised in any court of hustings.

With a view to exculpate this high bailiff, his deputy Mr. Grojan, related an incident which I shall notice, and the exultation of the opposite side of the house, at the time of that relation, renders that notice the more necessary. It was this—he asked a man which way the street lay in which he lived, and the man said it was *that way*, pointing his hand towards Drury Lane, ‘I immediately suspected him and afterwards rejected him,’ says Mr. Grojan. Now, sir, this story happens to be strictly true, and true to the confusion of those who relate it for the vindication of the high bailiff. Were my election to depend upon the merits of a single vote, I do not know that I should prefer any other inhabitant of this great city before *that very man* then rejected by Mr. Grojan; for in all Westminster there is not a better qualified, a more undoubted legal voter, than that identical person. And what is the fact, sir, that this honest, ignorant man came to poll with liquor in his head; and (embarrassed by the scene, by the shouting, and by the manner perhaps of the question) made that absurd reply. These events, sir, were not unfrequent at that hustings, and when one considers the facility of puzzling such men in all places, when one considers that Mr. Grojan is not of all men living the most embarrassed in the exercise of his duty, nor exactly the most anxious for the comments of by-standers upon his conduct; there is little wonder that that honest uninformed men, surrounded by thousands, with half a dozen inspectors plaguing them with different questions at the same moment, in the midst of noise and huzzaing, in that state of hilarity perhaps which is too frequent at general elections, should sometimes give a foolish unconnected answer to such interrogatories as generally come from Mr. Grojan.

I understand that a learned gentleman has said, that *he* would have closed the poll long before the high bailiff proclaimed his intention of doing so. I

do not mean to argue the legality of that position with the learned gentleman. That the fact was exactly otherwise, is all that is necessary for me to maintain. It is in evidence before you that he did *not* close it until the 17th of May, and then closed it not from deficiency of voters, but for the express purpose of enabling himself to make his return by the 18th, the day on which the writ was returnable. The first and the only notice I had of his intention to close the poll was on the Thursday preceding; and I do confess, and have always declared, that my object was to continue the poll during the three intermediate days, that the high bailiff may be obliged to assign this as his reason, since the act of closing the poll was his own act. In this I hold myself perfectly justifiable. During these three days I confess it was my wish to protract the poll, but I solemnly deny that it was ever prolonged by me a single hour more; and also deny, that up to the 13th of May, I had any proposal or any offer that I could notice, for closing it.

Attempts have been made to prove, and that is the last head of evidence I shall touch upon, that insinuations came from us at a certain period of the poll, of demanding a scrutiny. That some of my friends might have expressed that intention, is very probable, but give me leave to say, sir, that if I had myself formally demanded it, there is no rule of law that warrants a conclusion against me, on account of my own conduct as a party. A thousand motives there may be to justify me in *demanding* of the high bailiff, that which it would be perfectly right in him to *refuse*. If in any case of litigation, a judge should grant to one of the parties whatever *he wished*, how could he ever come to a just decision? Or who would ever be defeated, whatever may be the badness of his cause?

But, sir, has it been offered to you in proof, or is there a man that can say, I ever did for one moment entertain the idea, much less express it, that a scrutiny could go on after the day on which the writ was returnable. Sir, I do assure you, so absurd, so

preposterous, so pernicious a thought, never once possessed me. I had occasion very maturely to consider this subject at the first Westminster election. Lord Lincoln then demanded a scrutiny, which the high bailiff granted, and which the noble lord afterwards relinquished. I remember to have investigated the matter then. I consulted the greatest dead and living authorities, the best books, and the most learned men in my circle; and the result was, that the granting a scrutiny before the return of the writ was legal, but no book, no lawyer, no man before this time, ever to my knowledge, maintained that a scrutiny could be continued, much less begun, *after* the day on which the writ was returnable.

Then say my enemies, why did *you* expect the high bailiff to grant you a scrutiny, which you must know could not be finished before the 18th of May?—and at that I see the gentlemen on the opposite bench* exult a little. But, sir, it is a weak and childish exultation. Do they think, or if they deceive themselves, can they believe the publick will think, that I could have been so gross an idiot as to suppose a scrutiny of this election could be over before the 18th, with the instance of Vandeput, and Trentham staring me in the face; where an *unfinished* scrutiny lasted above *five months*. Can they imagine I could hope a scrutiny in this case, where upwards of three thousand voters polled *more* than at the contested election of Vandeput and Trentham, could by any possible means be over before the 18th! Surely not. A tolerable knowledge of Mr. Thomas Corbett, the high bailiff of Westminster, gave me no extravagant hopes of success, in any scrutiny where he was to be the sole judge; and therefore all I ever meant was, that an inquiry might take place, previous to the 18th; which inquiry might enable us to form the train and order of the necessary evidence, that we may the better know how to discover the different species of bad votes, and class under their various heads,

* The ministry.

those which were doubtful, those which were suspected, and those which were positively illegal; and so far to methodize, arrange, and simplify the business before the return, that we may go on in the committee, under Grenville's bill with the greater facility and expedition, and with less expense; and this would have been a material point of preparation for us.

This, sir, was all I ever meant by a scrutiny before Mr. Corbett; and all that any man of common fairness and liberality can suppose I meant.

A noble lord over against me,† in his zeal to exculpate the high bailiff, charges me with having intimidated him; and charges it upon the evidence of Mr. Grojan. That noble lord, disdaining all regard to consistency whenever he thinks he can impute a fault to us; at the same moment that he asserts the high bailiff was intimidated, pronounces a flashy panegyrick upon the firmness and intrepidity of the very man he affirms to have been thus terrified. But, sir, the high bailiff *was* threatened—and how? Was it by threats of assaulting him? No. Was it by holding up the fear of danger to him, by mobs or riots? No. Was it by a menace of taking away his books, breaking the peace of the hustings, and interrupting him in the discharge of his duty? No, no: but it was by warning him of the consequences of unjust partialities, false or corrupt decisions.—It was by threatening him with legal punishment, *if he did not make the law of the land the rule of his conduct*. Grojan tells you that he believes these threats sometimes induced the high bailiff to make decisions in my favour *contrary to his judgment*: yet this is the man, whose firmness and intrepidity the noble lord commends so much, and whom the government of this country is straining every nerve to bear harmless through this unprecedented business. An officer, whose deputy as a palliation of greater guilt, defends by saying that he committed a *palpable breach of his duty*, and only because he is threatened *with legal punishment, if he acts*

† Lord Mulgrave.

against law! Sir, for my own part I believe, there is as much sincerity in the noble lord's panegyrick, as there is veracity in the deputy bailiff's inference from these threats. All I wish, however, is, that you would properly notice this species of intimidation. It is an intimidation, sir, the influence of which, I hope, will reach every man, every magistrate, in this country, however splendid his station, however lifted up above his fellow creatures in office or dignity.—*To keep before his eyes the danger of a vicious, or a wanton breach of the law of the land.* Would to God this house were in a capacity to become an object of those consequences, which the verdict of a jury would determine to follow a violation of the laws! With what content, with what confidence, should I submit my cause to such a tribunal!

Having now, Mr. Speaker, gone through the various depositions that have been made before you. Having from the evidence shown, that the alleged grounds of the high bailiff's first granting this scrutiny, were the direct reverse of those he declares to this house to have been his motives.—Having shown that he was in habits of clandestine intercourse with my opponents—having shown that he was in the constant course of receiving *ex parte* information, in an illicit and shameful secrecy—having shown that he positively and solemnly denied this series of iniquitous proceeding in the vestry, which he boldly avows at your bar—having shown that the poll was as much a scrutiny as any poll can possibly be—having explained my views in the event of my demanding a scrutiny—having described the species of intimidation used to this man, and confirmed, that so far from exculpating it tends deeply to criminate him—having shown this, sir, and shown it by the evidence which you have heard at your bar, I shall conclude this part of my subject with submitting to every man of honour and candour who hears me, whether he really thinks that the high bailiff of Westminster exercised a sound and honest discretion in granting a scrutiny, supposing for argument

sake that he actually possessed a legal power to grant it.

The remainder of what I have to say, shall be directed to prove that he had no such power, and to lay before you the fatal effects of such a precedent, as the loss of this question will afford.

I am not a professional man, and cannot be supposed to speak with the information of professional gentlemen upon a legal subject. There are however general and fixed principles of common sense which serve to guide an unlearned man upon a subject of this kind. Four different ways occur to me, by which in a case of doubt the law may be discovered and ascertained. First of all, I should look into the statute book upon the table; if upon searching there I find *an act of parliament* upon the point in dispute, doubt and conjecture cease at once and all is clear and certain. But if there should be found no act to regulate the case in question, I should then in the second place have recourse to practice and precedent, and inquire what has been done in similar cases, on similar occasions. In other words, I should try what is the *common law*. If I find practice and precedent direct me, then every thing is plain and easy: but if no statute and no precedent should be found, by which I could steer in this ambiguity, my next obvious resort would be to *legal analogies*, to cases, which though not precisely the same in all points, are yet perfectly similar in principle. If in this department of research I find any thing to direct me, there too all will be smooth, intelligible, and certain. But if I find no positive statute, nor precedent, nor practice at common law, and no legal analogy, whereby I might discover the fact, there is then much difficulty indeed, but not an insurmountable one. Still I should make an effort, and my last and fourth resort should be to the experience and understanding of mankind—to those arguments which common sense suggests, to fair conclusions deducible from fair reasoning, founded upon the immutable principles of policy and expediency.

Now, sir, if *some* of these various modes of defining the law, should happen to favour me upon the present subject, and that *others* should unfortunately militate against me, still I may be right in my position, but not with that fulness of conviction, that clearness of certainty that I might wish.—The case, however, is so entirely otherwise, that I do venture to affirm, and engage to prove to the satisfaction of every man capable of being satisfied, that not only *nothing* in any of these different ways of attaining the fact, does operate in the slightest degree against me, but that *all* and *each* concur in supporting me, and demonstrating the illegality and violence of my enemies in the present business. I do therefore assert, that the high bailiff of Westminster in granting this scrutiny has violated the law of the land, by the combined force and testimony of these four tests :

By the statutes.

By the common law.

By the analogies of law.

By policy and expediency.

First as to the statutes.

The act of the tenth and eleventh of William III. was made for the avowed purpose of checking the bad conduct of returning officers. The preamble of the bill, and every clause in it proves this to have been the object of enacting it. As the part of it which relates to returns is merely directory, it is gross and absurd to construe it in any other manner, than that which makes it answer the evident purpose for which it is enacted. It requires that the writs for any future parliament, shall be returned on or before the day that parliament is called to meet—that the return shall be made to the clerk of the crown, which clerk of the crown is authorized to receive four shillings for every knight, and two shillings for every burgess. It imposes a penalty upon the sheriff, if he does not make his return, on or before this day.

Now observe the construction given by the opposite side of the house to this plain intelligible statute. It is true say they, this act is binding upon a *sheriff*,

but not at all upon a *mayor* or *bailiff*. Why? because a *mayor* or *bailiff* are not mentioned. True, they are not mentioned, and probably the action I spoke of some time ago might not lie against the high bailiff, not that he has not openly transgressed the *spirit* of the law, but because the penal part of every statute is to be construed according to the *strict letter* of the act; but I submit to the house, whether they ever heard so low, so vile, so dirty a quibble; whether they ever heard so base a perversion of common sense, as to suppose the legislature of this country to have been such a set of idiots, such a herd of miserable beings, as that in an act, made for the avowed and declared purpose of correcting and punishing the misconduct of returning officers, they should have provided against the partialities and corruption and roguery of sheriffs, and have left the nation at the mere mercy of mayors and bailiffs without restraint, redress, or punishment. This is the construction put upon this act by his majesty's ministers, the patrons of this high bailiff, although they see those express words in the body of the act—"that the clerk of the crown shall receive at the time of these returns (which returns must be made on or before the day of the meeting of such new parliament) four shillings for every *knight*, and two shillings for every *burgess*." Why mention the *burgess* if that act is not meant to compel the return of the writ, under which he is chosen? Was there ever such an outrage upon common sense, as to maintain, although they see the *fee stated for the burgess to pay, though they see the return required proceeding from the sheriff's precept to the mayor or bailiff*; that the *mayor* or *bailiff* is not obliged to make a return within the time prescribed by the same act; that is, *on or before the day that the new parliament shall be called to meet*?

But there is another point which defines the meaning of the legislature to a certainty, and it is the exception in favour of new writs upon *vacancies*. In that case there is an obligation that the return be made within fourteen days after the election upon that va-

cancy. Is it consistent with reason, or rather is it not making downright nonsense of this act, to suppose that it should compel a return within a certain time *in cases of vacancy*, but that upon a *general election*, all should lay at the *mere will and pleasure* of the returning officer? Will the gentlemen urge the same contemptible reasoning here, and assert that the compulsion in this case only respects the returns of knights of the shire? What? that an act should be made to prevent the collusion and knavery of returning officers, yet that it extends only to the preclusion of frauds in returning about *one hundred* because they are knights of the shire? and leaves the remaining *four hundred* at the discretion of every mayor or bailiff. Sheriffs are in general of a much superiour rank and character to the other returning officers, yet the wittol caution the honourable interpreters of this act impute to the English legislature is, that they guarded against abuses from that class of returning officers whose fortune and sphere of life presumed *most* for their integrity, and made no provision whatever for the possible misconduct of that very description of returning officers, whose situation gave the *least* pledge or security for honest and uncorrupt conduct.

If I am not mistaken, this species of reasoning carries with it its own refutation.

A noble lord over against me,* has advanced a singular kind of argument indeed, touching the intention of this act of king William. He has read to you from the journals, an instruction to the committee, appointed to bring it in, which instruction suggests to them the introduction of a clause to secure the returns for cities and boroughs within the specified time, and in a style of inference peculiar to himself, he concludes that as the express words do not appear in the statute, the legislature never meant to include the returning officers of cities and boroughs.

* Lord Mulgrave.

Now I will take upon me to say, that every other man in this country, (that noble lord and those who concur with him in opposition to my honourable friend's motion excepted) capable of understanding the sense of an act of parliament, will draw the direct converse of his conclusion from the noninsertion of that clause. The sole view of this statute was to correct the abuses of returning officers. The instruction from the house to the committee proves, that the disease extended to mayors and bailiffs. The omission of that clause therefore clearly demonstrates, that the framers of the act thought the suggestion fully comprehended in the act as it stands, and that it would be mere tautology and needless repetition to be more explicit. What a miserable legislature must that be, which in the act of applying a remedy to an acknowledged evil, creates ten times a greater than that which it endeavours to cure. Those who made this law were in my opinion good politicians, but they were evidently not good prophets—for they did not foresee that an hour would come when men should rise up, and put such a construction upon their labours as marked them the most despicable set of drivellers that ever insulted society under the appellation of law-makers.—In a word, sir, I contend that the statute of king William is decisively and completely with us.

The 23d of Henry the VIth is likewise with us, and does afford me a legal remedy against the high bailiff, of which I shall most certainly avail myself. That act authorizes the sheriff to issue his precepts to the returning officers of cities and boroughs. It requires that they shall make a return to the sheriff, and gives the person *chosen and not returned* an action which *must be brought within three months after the meeting of parliament*. From this it is evident, that the return of the writ, and of the precept proceeding from the writ, must be at one and the same time, viz. by the meeting of the parliament. For otherwise observe what rank nonsense this statute would be. The misconduct of returning officers made it neces-

sary to give a power of legal punishment to the party *chosen and not returned*. That power is here given; but if we can suppose that the act does not compel the return to be positively made by the meeting of parliament, the penalty is all a farce: for who will make a return that will subject him to a civil action, if it be in his power to avoid it. Whether the return be true or false, therefore, it is as clear as day-light, that *some return must* be made by the meeting of parliament. For it is insulting common sense to say, that the man who incurs a legal penalty shall have a legal power of evading it. That is to say, that a returning officer may, *of his own authority*, prolong his return until the three months pass away, *within which time alone* the action can commence for the punishment of this gross abuse.

I have therefore, sir, no difficulty in saying, and I am confident every fair man agrees in the truth of it, that these two acts, in their letter, as well as their spirit, demonstrate, that the high bailiff of Westminster, in granting this scrutiny, has positively broken the statute law of the land.

The second point to which I shall advert in the arrangement of this argument is, the point of practice, or what the common law is upon this occasion; and the best way to show that the high bailiff of Westminster's return is against both the one and the other is to observe this fact—that in all the records of parliament, in all the annals of election, and in the history of this country, a single precedent cannot be found to justify this extraordinary return. The main and evident drift of it was to deprive me of the benefit of Mr. Grenville's bill; and to accomplish this end, do but observe how many obvious modes of return he has passed by. Had the bailiff done his duty, and returned lord Hood and me, Sir Cecil Wray would not have been injured, for he would instantly petition, and the merits of the election would be tried by a committee upon their oaths. Had the bailiff doubting, as he pretends, the legality of my majority, returned as he undoubtedly might have

done, lord Hood and Sir Cecil Wray, then I should have petitioned, and one of Mr. Grenville's committees would have redressed me. Had he returned lord Hood alone, still it was cognizable by Grenville's bill. A petition against an undue return would have been presented, and this house infallibly prevented all interference in the matter, except in appointing the committee. Or if he had returned the *three* candidates, the double return entitled it to a priority of hearing (upon that great and fundamental maxim, that the first object was to have the house *complete*) and a committee under Grenville's bill would instantly have tried the merits of the return, and rescued the case from the prejudices and party influence of the house of commons. At all events, my sitting here for Kirkwall rendered an immediate discussion and decision upon the business indispensable, as petitions complaining of pluralities of election are always heard in order, next to double returns. Thus you see with what dexterity this has been managed.

This curious return had two views. First, to exclude me from sitting for Westminster. Secondly, to deprive me of the advantage of Mr. Grenville's bill. And, sir, does any man think this return was the fabrication of Mr. *Thomas Corbett*? The party spirit and personal rancour, so visible in his defence before this house, confirm that he has all the disposition, if not all the ability in the world to do me every mischief. Yet I cannot be persuaded, when I consider who *they* are that take the lead in his vindication before this house; and when I observe how very familiar they appear to be with this *historical* return (as my noble friend has well called it) that so peculiar, so ingenious, and so original a fragment as this could ever have been his sole production. In a word, sir, this cursed historical return, this return unmatched, and unprecedented in the history of parliament, is the only species of return that could have robbed me, and the independent electors of Westminster, of a fair hearing before that admirable judicature, instituted by Mr. Grenville's bill.

A learned gentleman who appears at your bar for the high bailiff, admits that no instance of this kind ever happened before; and to induce the house to support his client, he says, it will never happen again. How he comes to know that a line of conduct so convenient to a minister, so well suited to those who have the power to oppress, and a disposition to exert every power against those they dislike, the learned gentleman himself best knows. But surely, after such an admission, to pray the sanction of this house for an act allowedly unprecedented, is somewhat singular. The learned gentleman's prophecy is surprising, it is true; but the argument drawn from that prophecy is still more surprising. Grant the scrutiny, says he, in *this case*; but you certainly *never will do the like again*. Perpetrate the most gross and glaring injustice deliberately, for you never will commit a similar outrage hereafter. A good understanding, however, seems to prevail between those within and those outside of the bar. And the intimation of a learned gentleman over against me, of an intention to bring in a bill to regulate this matter in future, does in a great measure account for the prediction of the high bailiff's counsel, that this iniquitous precedent will be no example for future imitation. Now, sir, I take the first opportunity of declaring, that a bill declaring the law, *after a decision directly contrary to law* shall be opposed by me with all the faculties and force I am master of. This is no new principle with me. I have ever set myself against the affectation of applying a remedy upon erroneous decisions, subversive of law in supreme courts of judicature. In the case of the determination concerning general bonds of resignation of church livings, in the house of lords last year, a bill past there and was sent afterwards to this house, the purport of which was, to declare the law in that case, after a determination which reversed the uniform current of decisions in Westminster Hall for a series of ages.* Such a bill

* Case of Fitch and the bishop of London.

would have been most fatal in its example, because it would have taken away the only check, restraint, and control, upon courts of dernier appeal. It would take away the general publick inconvenience arising from the false determinations of superiour courts. I opposed that bill, sir, and opposed it with success; for this house rejected it. I shall oppose the bill suggested by the learned gentleman upon the same principle, and every other bill of the same tendency. For sure there cannot be a more barefaced violence of decency and justice, a grosser mockery of the common sense of mankind, than to authorize a scrutiny in direct opposition to the whole tide of precedents, and exactly subversive of positive law; because you intend to bring in a bill to prevent the repetition in future time of so scandalous and shocking a proceeding.

An incident occurs to me, which will be proper to mention here. Much discussion formerly took place upon this subject of regulating scrutinies, and especially at the time of the Oxfordshire election; concerning which election I shall presently trouble the house with a few observations. Great pains and labour were employed then with a view to frame an act of parliament upon the subject; and a great man, whose name I mention only in the purest respect, and reverence for his character,* took an active part, and gave the whole attention of his extensive, and shining talents to the business. Yet, after the most deliberate and mature consideration of the subject, even *he* abandoned it, in a despair of being able to accomplish any system of management, from which many evils and various disadvantages, impossible to be remedied, might not flow. All attempts to regulate scrutinies by act of parliament were then consequently given up. The learned gentleman† will excuse me, if I cannot easily believe that he will effect *that* which Lord Mansfield relinquished as impracticable; and even this consideration would be an additional motive with

* Lord Mansfield.

† Mr. Harding.

me in not hastily assenting to a bill of the complexion suggested by him to the house upon the present subject.

I have said, that this business had no precedent in the annals of parliament. The gentlemen on the other side† do not attempt, because they dare not, to show that this high bailiff is justified by any. The only cases they venture to touch upon are, the cases of Oxford and Westminster: and yet these two cases are fundamentally and altogether against them. Could they cite any instances more apposite, undoubtedly they would never have alluded to those, which, under a hope of giving some colour to the matter in question, do absolutely, positively, and substantially make against them. If out of the mass of precedents I were to choose one, to prove the grossness of this proceeding, I think it would be the very case of Oxfordshire. The candidates who at that election were lowest on the poll demanded a scrutiny, and the sheriff granted it. Every one knows that the sheriff carried his partialities for the losing candidates, who demanded the scrutiny, to the greatest lengths; yet, partial as he was, and although his friends were diminishing their opponent's majority daily by the scrutiny, he gave them notice that his duty bound him to stop the scrutiny, for the purpose of making his return on the day the writ was returnable. He accordingly stopped it, and made his return. If this sheriff, interested as he was for those who were gaining by the scrutiny, conceived it possible for him to be sanctioned by any law or precedent in making a special return, and going on with the scrutiny, would he not have done so? Undoubtedly he would; and the kind of return he made proves that he would, if he thought he might. Unwilling that those who were obnoxious to him should sit in the house, he returns all the four candidates; and this he does as the last and greatest act of friendship he could confer on his friends previous to the extinction of his authority, viz. the return of the writ.

† The ministry.

I do not say that in making this double return the sheriff did right : but right or wrong, it proves this ; that all the service he could render his friends he did. Does any one doubt that the two candidates, thus aided by the sheriff, and in the act of growing daily upon their adversaries by the scrutiny, would not prefer the partial, the kind and favouring tribunal of their determined friend the sheriff, to the house of commons, had they supposed that any thing could justify him in continuing the scrutiny after the meeting of parliament ? but so frightful an idea was never cherished, and they held themselves bound for ever in gratitude to the sheriff for having included them in his return. An honourable gentleman, whom I see in his place, but who I believe neither sees nor hears me at this moment,* knows full well that all I am stating relative to the Oxfordshire election is strictly true. He cannot easily have forgotten the part he took in that memorable transaction. He engaged eagerly in the contest, and embarked in that interest which I should certainly have embraced, had I been of an age to form an opinion, and to act upon it. That honourable gentleman can attest the veracity of this recital, but it were vain flattery I fear to hope that he will rise up to night and vindicate by his voice and his vote the principles of the cause he then supported, and which gained his friends the election.

He must remember that a long discussion took place in this house touching the right of a certain class of copyhold tenants, who voted for those who had the majority upon the poll, and that the disqualification of this description of voters seated those in the house who were lowest upon the poll and the scrutiny. And here I must observe, what a strong and unanswerable confirmation of the point I am endeavouring to establish, springs from a careful review of the Oxfordshire case. The cause of the unsuccessful candidates was pleaded at the bar, by one of the

* Mr. Jenkinson, who was fast asleep upon the treasury bench, and whom Mr. Pitt awoke when Mr. Fox alluded to him.

greatest characters of that time, and one of the greatest ornaments of this: I mean lord Cambden, *quem gratia honoris nomino*. A question was agitated to ascertain a peculiar qualification, which bore the most inauspicious, and as it afterwards proved, the most fatal aspect towards his clients. If any objection to determine the point upon that ground could possibly be supported, does any one doubt that his ingenuity and penetration would not have discovered it? does any one doubt that he would have enforced that objection with all that perspicuity and fervour of eloquence which so much characterize that noble lord? But the idea of a sheriff withholding a return on account of a scrutiny never once occurred to him, nor to those who managed it within the bar: nor do I believe, until this time (to answer the laudable purpose of the present moment) did it ever enter into the head of any man as legal or practicable.

So much for the Oxfordshire case, which I maintain goes with us in all its points and principles.

With respect to the Westminster case in 1749—A learned gentleman* who has spoken with much liveliness, but without one word of legal argument, tells you the scrutiny then and the scrutiny now are cases exactly in point. In contradiction to that, I affirm, that not the least similitude subsists between them. In *this* case the writ is returnable upon the 18th day of May; in *that* no precise time is mentioned for the return; and here consists the whole difference. Every one knows that the election of of Trentham and Vandeput was upon a vacancy in consequence of lord Trentham's accepting a seat at the board of admiralty. Upon a general election the king calls a parliament for the despatch of great and urgent affairs, and he calls it to meet upon a particular day: now, sir, observe, if there be no compulsion upon returning officers to make their returns by that express time, *what is to become of the great and urgent affairs for the despatch of which his majesty calls a parliament?*

* Mr. Harding.

Can you reconcile for one moment, that the nation should be bound by laws, and burthened with taxes to which they did not consent; that the king should have no parliament, and the people no representatives to despatch the weighty and urgent affairs they are called to consider by a *particular day*, only because it is the whim or fancy, or wickedness of a returning officer, at *his* leisure, to keep them employed in the long laborious business of a scrutiny. But during the existence of parliament, when a writ issues upon a vacancy, no particular day is named for its return. A poll or a scrutiny (which means only a continuation of the poll in another form) may be carried on because it does not in the least infringe upon the *exigency of the writ*; because no *particular* time is mentioned for the return, and because his majesty does not call upon that individual representative to come upon a precise day for the despatch of great and urgent affairs that affect his people, as upon a general election. This, therefore, constitutes the distinction, and it is a wide and a material distinction. The grievance from the absence of *one* representative is slight, and the law in that case admits a scrutiny: but in the other case, to withhold the return beyond the time appointed, is infringing the *exigency*, and violating the *terms* on which it was issued; which are, that the parliament must meet upon that *express day*, for that *express purpose*.

Why there should be this distinction—why the compulsion of a return by a specified period should not exist as well in cases of vacancy as of general election, is not now the point in dispute. If it be, as I think it is, a defect, it only serves to prove, that in the best works of human wisdom there are flaws and imperfections. Our aim is to find out *what* is the law, not *why* it is the law; and, from the whole, it is clear, that the high bailiff of Westminster, in over-stepping this distinction, and granting a scrutiny to commence after the day of the general return, has broken every statute that appears upon this subject

in your books, and gone in the face of every precedent that can be found in your journals.

The third ground upon which I shall take up this subject, is upon that of the *analogies of law*; and upon this I shall detain the house only with a few words; not only because my ignorance of that profession disqualifies me from treating the point fully, but because all that can be said has been urged with the greatest force and effect possible by the learned gentlemen who appeared at your bar in my behalf; the proof of which is, that not a position they have advanced upon the legal analogies, has been controverted by the learned gentlemen who pleaded for the high bailiff *without* the bar, or those venerable judges and crown lawyers who have attempted to defend him *within* the bar. Little, therefore, remains for me to say; but, little as I affect to have of information upon this part of the subject, I have enough to know, that wherever the gentlemen on the other side have attempted to assimilate this case with legal analogies, they have completely and entirely failed. They have endeavoured to establish, that an officer may *go on* to execute the object for which the writ was issued from the courts in Westminster Hall, even *after* the day on which the writ is returnable. Yes, sir, he may go on; but how? Upon the authority of the expired writ?—No, by no means. He goes on by a *new power* given him by that court whence the writ originally issues, to complete *that* which the premature expiration of his first commission prevented his accomplishing. In a word, the court has the power of rendering effectual *its own* process, and therefore grants a writ of *venditioni exponas*, where the sheriff has not been able to sell the goods levied under the first writ; and many other writs of different titles for the purpose of *completing* that process the court has begun. But has any man said, that without a fresh authority, any sheriff, or any officer of any court of law, can proceed a single step under the old writ, one *single hour after the day named for its return*? I say no, sir. There is not one man,

however ignorant in other things, who does not know that *all the authorities of all writs* are defunct and extinct on the day named for their return. It is admitted that the court can grant *a new power* to complete *its own* process. Now, sir, to show the gentlemen on the other side that they have not a shred of analogy to support them, I will suppose, for a moment that the writ under which the high bailiff carried on this election, had been issued from *this* court, what writ, or what legal authority can you give him to finish that which he says is still depending? None, I say, sir. A court of law can effectuate *its own* process by giving its officer a *new power* on the demise of the *old*; but did you ever hear of *one* court granting an authority to accomplish the purpose of a writ issued from *another*? Never. Such a thing was never heard of. And how stands the fact here; that the *court of chancery* issues the writ, and the house of commons (*another court*) is to send forth a fresh writ to finish that which has not been finished under the *king's writ* issuing from *chancery*, the duration of which ceased on the 18th of May. See the infinite absurdity into which these poor attempts to make out analogies involve the supporters of the high bailiff. Will they say, though this house cannot issue a supplemental power, the usual officer for making out parliamentary writs can. Try it, sir, and you will puzzle all the writ-framers belonging to the house. I will venture to say, that all the skill of the crown-office, and all the skill of the court of chancery combined, will be at a loss in what shape or mode to frame an instrument so exotick and hideous. I will not push this point further, satisfied that no candid man can have a second opinion upon the subject; and shall conclude this part of my speech with affirming, that the *statutes*, the *precedents*, and *analogies of law*, assert and establish the truth of my honourable friend's motion; and that, by *those three tests*, I am clearly entitled to the judgment of this house against the conduct of the high bailiff of Westminster.

The fourth and last ground of consideration is upon that of expediency, upon sound sense, and general policy; and here I shall have as little trouble as upon the three former grounds to establish every position, and to show the house the iniquity of this proceeding. The conduct of this bailiff not only violates the spirit and letter of every law, but absolutely, in so far, subverts the main principles of the British constitution. When the king calls a new parliament, the fair presumption is, that the "great and urgent affairs" for which he calls them together, demand their immediate deliberation. It is clear that our ancestors were extremely cautious that nothing should prevent or obstruct their meeting; and, lest returning officers should be instrumental to this obstruction, all the statutes, and all the precedents that bear upon this matter, confirm their jealousy, and prove their diligence to guard against abuses. The misconduct of returning officers, the facility of the evil, and the dangerous consequences resulting from it, were the evident and avowed cause of making those laws which I have mentioned, and which were avowedly intended to restrain them. Let but the conduct of the high bailiff of Westminster be sanctified this night by this house, and I challenge the ingenuity of mankind to show a more effectual mode of putting the nation into the hands of returning officers.

What security can any man have that a parliament shall meet when the king calls it, if you establish this precedent? An honourable friend of mine, who has this day spoken for the first time,* and who has exhibited a power of fancy, and force of argument, that give a high promise of his making a splendid figure in this house, has said, it was possible the house of commons of England might, upon the assembling of a new parliament, be confined to the members from Scotland, where all scrutinies precede elections, and where the positiveness of the law prevents the commission of these knaveries. Now,

* Sir James St. Clair Erskine.

although the brilliant fancy of my honourable friend might, perhaps, have stretched the possibility a little too far; is there a man who will engage, that this case once sanctified, the example will not be followed to the most calamitous excess? The exact number of 513 English members might not indeed be absent upon the meeting of a new parliament; but will any man say why 20, why 60, why 100, nay, why 200 might not, by the ignorance, by the caprice, by the folly, by the stupidity, or (what is more analogous to the case in question) by the baseness or treachery of a returning officer, remain unreturned? Here I must notice the low, the little, the miserable allusions which are so frequently made by those over against me to the place that did me the honour of sending me to parliament. But it is a poor and pitiful kind of triumph. Much as they may affect to exult, nothing can be clearer than their disappointment upon the occasion, and the petition lately presented against my seat for Kirkwall, proves their mortification to a certainty. And indeed it appears from the conduct of government, that Scotland is the only place that *could* return me, as the same shameless persecution would no doubt have followed me in any other place in England. Fortunately there was one part of the kingdom where their oppression could not prosper, and from which their violence and injustice could not exclude me.

Sir, I do really believe that the supporters of this extraordinary business look but a short way, and do not at all calculate or count upon its probable effects. If there had not been an act of parliament expressly to regulate scrutinies in the city of London, who can say that, at this moment, when laws are to be made as serious and interesting as any that ever passed in this country; when great and weighty impositions must be laid upon the subjects; when new and important regulations are to be entered upon concerning the commerce, the credit, and revenues of the nation, who can say that at this time the capital of the country, so deeply and supremely interested in all these

objects, might not be deprived of representation as well as the city of Westminster?—But, sir, I beg pardon—I am doing injustice. The sheriffs of London are too well acquainted with their duty, and too zealous for the honourable discharge of it, to have been guilty of so gross an outrage upon the laws of the land, or lent themselves to be the vile and sordid instruments of so base a business.

But the character of an officer is a weak security against the abuse of an office. Under men less informed, and less tenacious of their official reputation, who can say (if an express act had not rendered it impossible) that the patrons of Sir Cecil Wray, who are also the patrons of Mr. Atkinson, might not practise the same stratagem in the city of London, and by that manœuvre prevent the wishes and the sentiments of the capital from being declared in this house, through the constitutional organ of their representatives? They, sir, I affirm, are weak and foolish men, rash and giddy politicians, who by supporting a measure of this kind, become parties in a precedent, capable of producing consequences which strike at the source and root of all legislation. For it is the fundamental maxim of our constitution, that the consent of the people by their representatives is essential and indispensable to those laws that are to govern them.

Upon this, however, a curious sort of reasoning is adopted, and a noble lord* sees no evil in a defect of representatives for Westminster, as it is virtually represented by those who sit here for other places. In the principle that *every* member is bound to the common interest of *all*, I certainly do agree, but I beg leave to set myself wholly against the general argument of virtual representation. We have too much of *virtual* and too little of *real* representation in this house. And to the present hour I never heard, that the most determined enemy to a parliamentary reform ever urged, that the virtual repre-

* Lord Mulgrave.

sentation of the country was so *complete a substitute* for real representation, as to deem it wise and salutary upon slight occasions, or upon any occasion to lessen that which is already much too little. The whole tide of reasoning has on the contrary run in the other channel, and the great argument for a parliamentary reform has been founded upon this very defect of real representation, which the noble lord over against me is so zealous to diminish. As the honourable gentleman near him however,* is the professed friend of that reform in the representation of the people of this country, which I have in common with him so long laboured in vain to accomplish; I shall hope to see him stating this very case of Westminster, to induce the house to adopt the motion which will be made upon that subject by my honourable friend† in a few days. Of the prosperity of that motion I now entertain real confidence; the boasted power in this house of the right honourable gentleman, ensures success to any measure he abets. No question therefore can be entertained of attaining it, if the honourable gentleman is serious upon the subject; for surely the people of England can never be persuaded, that the majority which supported the minister in vindicating a direct violation of the law of the land, in the person of Mr. Corbett, *could have* failed him in endeavouring to effect an object so long looked for, so loudly called for, and so essentially necessary to the security of the constitution and the good of the nation, as a reform in the palpably defective representation of the people in this house.

The same noble lord attempts to strengthen his cause with a species of argument still more extraordinary, if possible, than the former, although of nearly the same nature. He tells you that representing Westminster has been a mere naval honour; and after stating the choice of lord Rodney when on foreign service, leads you to this inference, that the electors of Westminster are wholly unsolicitous whether they

* Mr. Pitt.

† Mr. Sawbridge.

are represented or not. This is rating the electors of Westminster at a low estimate indeed; but I, sir, who know them better than the noble lord, deny that they are so insensible to the blessings of the British constitution as his argument pretends. The electors of Westminster have rescued themselves from this imputation. Sir, they are seriously anxious to be represented, and they tell you so. But I remember, when absence was deemed a disqualification for naval officers upon a Westminster election. I remember when lord Hood was in the zenith of his fame, that persons now in my eye† urged his absence to the electors, as a ground of rejection, and advised them to prefer Sir Cecil Wray, who was present and able to represent them, to lord Hood who was absent and unable. This, though not my argument (whose opinion is uniformly, that all electors of all places should elect the men of their choice) was the exact argument of the present supporters of lord Hood, in favour of that of Sir Cecil Wray who *then* opposed him, but who *now* (*in his enmity to any junction after past opposition, in his utter abhorrence of all coalitions*) is linked with that very lord Hood in ties of friendship and good faith, which *he* certainly never will violate.

Efforts, sir, have been made to explain the act of George II. to the exculpation of this high bailiff; and his supporters affect to justify him upon his declared difficulty in making up his conscience. Why, sir, the very act they attempt to shield him under, is his strongest condemnation. The oath imposed in that act, only binds him to decide to the best of his judgment by a limited time. Lives there one man who shall say, this man would have incurred the penalties of perjury if he had returned the majority upon the poll? Lives there one man, who thinks the disquietude of his conscience alone prompted him to make the return he has made, when they must see a thousand instances every day of decisions of conscience, in cases

† Lord Mahon.

a thousand times more ambiguous and solemn? I will ask the house, whether this high bailiff has appeared to them in the course of this business, so spotless, so immaculate, so consistent, as to induce them to give him credit for a delicacy of nerve, and a tenderness of scruple beyond any other man living? Every person in the exercise of a judicial function, stands precisely in his predicament. What should become of us, if a judge were for ever to delay justice until he could make up his conscience to the minutest point of precise accuracy upon every doubt? There are few cases upon which a man cannot form *some* opinion; all that is required here is, to form the best opinion he can; and if seven weeks did not afford the high bailiff time enough to determine, it is surely hard with those who are obliged to decide almost immediately in the most important interests of humanity. My honourable friend who made this motion, with that weight and wisdom that accompany all his observations, has adverted to the case of jurors. Have you then patience at this man's pretence of conscience, when you reflect that twelve men must *all* concur before they go out of court, in a judgment which perhaps consigns a fellow creature to an ignominious death? the case may be doubtful too, and they must *all* concur in a few hours at most.

It is unnecessary to push this point further. I appeal to the house. There are feelings which even party prejudices cannot dispossess us of. We owe to each other a certain candour; and, I am sure I should be thoroughly satisfied to put this matter to the private answer of *any* man who hears me; if I were only to ask him, upon his honour as a gentleman, whether he really believes the return of this high bailiff is an act of *conscience*? And whether he thinks, if I stood in Sir Cecil Wray's place, and *he* had my majority, that we should ever have heard of this man's difficulty in giving judgment; or ever been insulted with this mockery of his scruples?

To show, in another striking point of view, that this scrutiny is against the law, let the house reflect,

for a moment, upon its utter inefficacy to enable the high bailiff to form a judgment; as that is the pretended cause of it. What means has he of exploring those things which he now affects to entertain doubts upon? He can command no witness; he can compel no appearance; he has no legal authority of penetrating the obscurity of any fact like other judges; he can administer no oath; he can impart no remedy to the party aggrieved, by so tedious and vexatious a process; he can award no costs; he can try no offence that occurs in the execution of this important duty; he is governed by no precedents; he is bound by no decisions: what he affirms to day he may deny to morrow; he has, in a word, all the means of doing injustice, and no one power or competent faculty to do justice. Yet to this species of tribunal is this house going (in violation of law and practice) to send me and my cause, on purpose to evade one which is full, adequate, effective, and vigorous: I mean, a committee under Grenville's bill.

A noble lord expresses his suspicions of the sincerity of my praises of Grenville's bill, and says, he imagines there is "a snake in the grass." It is most true, that I have had my doubts upon the effects of that bill, when it first passed into a law: but, sir, it is exerting the worst tyranny upon the understanding of men, if they are to be for ever condemned for having entertained doubts upon a subject purely theoretical. Extinct is every idea of freedom, and lost is the boasted liberty of debate, and the spirit of free thinking in this country, if men are to be debarred from profiting by practice, and changing opinion upon the conviction of experiment. All I can say, sir, is, that the many salutary effects of that bill have long since completely converted me, and I do assure you, in great sincerity, that no man living reveres and loves it more than I do. There can be no stronger proof of its superiour excellence, than that the evasion of it is the only possible means by which his majesty's ministers could perpetrate this gross act of injustice. The most infallible

S^rats, the test of repeated practice, asserts its due; and my attachment to it is not a little increased, for that it resembles that inestimable right, one of the few that Englishmen have yet to boast—the trial by jury. O that it were possible to mould this house into the size and character of a jury! of twelve men acting indeed upon conscience, and sworn upon oath, to give a true verdict according to evidence. How easy should I feel concerning the issue of this discussion!

In addition to all these arguments, will the house reflect that this scrutiny is not final in deciding the right of sitting here? Will they reflect, that after all the waste of time, after all the expense, all the labour, all the fatigue, which are indispensable upon it, its termination (whenever it may happen) is but the commencement of another process before a judicature capable and competent to administer justice, with a new series of expense, and labour, and fatigue. And who can tell us when this scrutiny shall conclude? The granting it is not more illegal and oppressive than the duration is uncertain and indefinite? Who can promise when such a conscience as Corbett's will be quieted? And who will venture to say, that after one, two, three, or ten years' investigation, the high bailiff's *conscience* may not be as unsatisfied, even upon the scrutiny, as it appears at this moment, after a seven weeks poll?

"But," say the supporters of the high bailiff, "this house will take care that there is no vexatious delay in the business, and will from time to time call upon him for a return or for the cause that may prevent his making one." I understand that argument perfectly well, sir; and it is of itself sufficient to show the grossness of this proceeding. *When* the bailiff will be called on to make a return, and *when* he will obey that call, can be very easily conceived indeed. If it were possible for this man in the course of this scrutiny to strike off from my numbers so many as would place Sir Cecil Wray on the head of the poll, I have not the smallest doubt that all delays,

subsequent to such an event, would appear just as frivolous, as vexatious and oppressive to the gentlemen on the opposite bench*, and to the high bailiff's conscience, as the whole proceeding now appears to me, and to the injured electors of Westminster. Upon all the considerations, therefore, that I have mentioned—the inordinate expense; the inefficacy of the tribunal; the obvious necessity of afterwards resorting to a more adequate and competent judicature; the certainty that this precedent will be the source of future oppressions; the dangerous example of it to other returning officers, who, under the sanction of this case, can give full scope to their partialities, their caprices, and corruptions; the circumstance of depriving so great and respectable a body of men of their representation in this house; the recognizing that dreadful doctrine, that a king may be without a parliament, and the people without representation, at the mere will and bare discretion of any low, mean, ignorant, base, and wretched being, who may happen to be a returning officer; from all these considerations, therefore, I am convinced, and I hope I have convinced this house, that if no statute could be found upon the subject; that if the common law were silent, and that legal analogies gave no light upon the subject, even upon the grounds of common sense and expediency, the law is clear and intelligible. But when all these concur to define and to decide the law; when *positive statutes*, when *practice* and *precedents*, when the *analogies of law*, and the arguments of *expediency*, founded upon the immutable principles of *wisdom*, *reason*, and sound *policy*, ALL combine and unite to establish and to assert it, can I have any fear to say that this motion ought to pass, and that the high bailiff of Westminster, instead of being permitted to proceed with this scrutiny, should instantly make a return of members for Westminster?

* The ministry.

Some gentlemen have argued, that this motion does not agree with the prayer of the petition. Let it be recollected, sir, that the petition was presented by me with a view of its being referred to a committee.*—Really, sir, if there is not enough of candour to admit this assertion without being explained, there seems but little chance of a fair hearing, or of a fair construction, upon points much more material. I again declare it was presented for the purpose I have described. A majority of this house decided, that the petition was not cognizable by Mr. Grenville's bill; and it was upon a suggestion from the other side of the house, that I presented it the same day to save time, and prayed that counsel might be heard at the bar in favour of it. The sole object of that petition was, that this house might order such a return as would come under the jurisdiction of a committee; the motion before you goes precisely to the same point, and to no other.

To that argument, if it deserves the name of argument, that we are inconsistent in desiring the high bailiff to make a return, when we contend that all his authority under that writ is completely defunct; it is almost unnecessary to reply, because it evidently defeats itself. In contending that the high bailiff was *functus officio* on the 18th of May, we are fortified by law; and, in desiring he would make *some return*, we are justified by precedent.

We contend, and contend with truth, that the writ, under which the high bailiff carried on the election, being returnable on the 18th of May, on that very day deprived the bailiff of all judicial authority, and divested him of all legal power under *that* writ. To proceed with a scrutiny is a great act of authority; to tell us who have, in his opinion, the majority of legal votes is not. That this house should order a returning officer to commence a scrutiny several days after the positive day on which his writ was returnable, cannot be paralleled by a single case in all the history of parliament—That it should order a return-

* Here the minister shook his head as if to deny the fact.

ing officer, who tells you he proceeded to an election, carried on a poll for a sufficient time, and that he then closed that poll of *his* own authority, to make a return, has happened again and again. We do not desire him to exercise any jurisdiction under that writ *now*, we only desire him to acquaint us with the fruits of the jurisdiction which he *has* exercised under it. I have done so and so, says the high bailiff. —Tell us what you mean, is all we say. “I have, on such a day, proceeded to an election,” says he, “I have carried on a poll for forty days; I have, on the day before the return of the writ, closed that poll of *my own authority*.”—All this we understand; in all this you did your duty; only tell us who are the candidates chosen upon this long poll? We do not mean to say you *have* at present any authority to do any thing under that writ; all we want to know is, *what you have done* when you *had* authority under it? Let the house reflect upon this fair and reasonable distinction, and they will see the paltriness of those quibbles, the misery of those low subterfuges, which imply that we would bring “a dead man to life,” and which imply an inconsistency between the motion and the arguments advanced in support of it.

What, I beg leave to ask, has appeared to the house extraordinary or uncommon in the election for Westminster, that justifies this matchless violence? In all the variety of evidence they have heard at the bar, has there been a proof of one single bad vote of my side? Not one. But there was much *hearsay* that I had bad votes. Sir Cecil Wray, and his agents, told the high bailiff they *heard* I had. Good God, sir, am I addressing men of common sense? Did any of you ever yet hear of an election, wherein the losing candidate did not charge bad votes and bad practices upon the fortunate candidate? Peevishness upon miscarriage is perhaps an error, but it is the habit of human nature; and, was the high bailiff of Westminster so *unhacknied* in the ways of men, as to be unapprized of this frailty; or, are the discontents of sir Cecil Wray, and the loose accusations

of his agents, the extraordinary things which the house sees in the Westminster election to justify this proceeding? Is the length of the election one of these uncommon incidents? By no means. The same thing happened at Bristol, where, without doubt, a scrutiny had been granted if the returning officer thought the law would bear him out in it. The same thing happened at Lancaster, where a scrutiny was demanded and refused; and where, when the connexions of one* of the candidates are considered, no doubt can be entertained that every stratagem to procrastinate, every scheme to perplex, every expedient to harass, all that a disposition, not the mildest when victorious, nor the most patient when vanquished, all that wealth, all that the wantonness of wealth could do, would have been exerted; and where a plan so admirably calculated for litigation, for vexation, for expense, for oppression, as a scrutiny, would not have been admitted, were it found legal or practicable.

Let the house reflect for a moment upon the facility of a collusion in a case of this sort, to keep a candidate from his seat, whose right to it is clear, unquestioned, and unquestionable. Suppose that not one single bad vote had been given for lord Hood in the late election, and that the noble lord were not (he best knows why) resigned and easy under this proceeding; what could be more hard and cruel than his situation? Does not the house see that ministers will be enabled by this precedent to exclude an obnoxious candidate for an indefinite space of time, even though his majority be the most undoubted possible, and his election the fairest in the world? It is only for the losing candidate to demand, and for the returning officer to grant a scrutiny. These are some of the evils that present themselves upon the recognition of this practice as right and legal.—For my part, I see nothing in the late election for Westminster peculiar and distinct from many other elections, but this singly—that *I was one of the candidates*. In that

* Mr. Lowther the nephew of Sir James Lowther.

light it is already seen by every cool, dispassionate, and sensible man; and that the whole nation will contemplate and construe the business of this night as an act of personal oppression, I am thoroughly convinced: nor can they think otherwise, when they learn, that in all the law books of this country, in all your journals, in all the histories of parliament, in all the annals of elections, in this great land of elections, where from time to time all that power, all that ingenuity, all that opulence could devise or execute, has been tried in elections—where, in the vast mass of cases that have happened, in all the multiplied variety of singular and curious contests we read and hear of, *nothing is found that assimilates with, or authorizes this scrutiny, under these circumstances*—not even by the worst of men, in the worst of times.

Sir, I will acquit the honourable gentleman over against me* of being the author, or being a *voluntary* instrument in this vile affair; and in that concession, sir, I do not give him much—it is but crediting him for a little common sense indeed, when I suppose that, from a regard to that government of which he is the nominal leader, from a regard to his own character with the world at this time, and his reputation with posterity, he acts his part in this business not without concern. That he may be accusable of too servile a compliance is probable enough; but of a free agency in it I believe he is guiltless. Not to him, sir, but to its true cause, do I attribute this shameful attack; to that black, that obstinate, that stupid spirit, which by some strange infatuation pervades, and has pervaded the councils of this country, throughout the whole course of this unfortunate and calamitous reign—to that weak, that fatal, that damnable system, which has been the cause of all our disgraces, and all our miseries—to those secret advisers, who hate with rancour, and revenge with cruelty—to those malignant men, whose character it is to harass the object of their enmity with a relent-

* Mr. Pitt.

less and insatiate spirit of revenge ; to those, sir, and not to the honourable gentleman, do I impute this unexampled persecution.

Having said so much as to the real authors of this measure, there remains another consideration with which I am desirous to impress the house ; it is a consideration, however, which in policy I ought to conceal, because it will be an additional incitement to my enemies to proceed in their career with vigour ; but it will nevertheless show the extreme oppression and glaring impolicy of this scrutiny—I mean, the consideration of expense.

I have had a variety of calculations made upon the subject of this scrutiny, and the lowest of all the estimates is 18,000*l*. This, sir, is a serious and an alarming consideration. But I know it may be said (and with a pitiful triumph it perhaps will be said) that this is no injury to me, in as much as *I* shall bear but a small portion of the burthen.—But this, sir, to me, is the bitterest of all reflections !

Affluence is, on many accounts, an enviable state : but if ever my mind languished for, and sought that situation, it is upon this occasion ; it is to find that, when I can bear but a small part of this enormous load of wanton expenditure, the misfortune of my being obnoxious to bad men in high authority should extend beyond myself ; it is when I find that those friends whom I respect for their generosity, whom I value for their virtues, whom I love for their attachment to me, and those spirited constituents to whom I am bound by every tie of obligation, by every feeling of gratitude, should, besides the great and important injury they receive in having no representation in the popular legislature of this country, be forced into a wicked waste of idle and fruitless costs, only because they are too kind, too partial to me. This, sir, is their crime, and for their adherence to their political principles, and their personal predilection for me, they are to be punished with these complicated hardships.

These, sir, are sad and severe reflections ; and although I am convinced they will infuse fresh cou-

rage into my enemies, and animate them the more to carry every enmity to the most vexatious and vindictive extremity, still it shows the wickedness of this scrutiny, and the fatality of its effects as an example for future ministers.

Little remains for me now to say upon this subject; and I am sure I am unwilling to trespass more upon the house than is barely necessary. I cannot, however, omit to make an observation upon an argument of two learned gentlemen,* who concluded two very singular speeches with this very singular position—That the house had only to choose between issuing a new writ, or ordering the scrutiny; that in its lenity it might adopt the latter method—but that their opinion was, for issuing a new writ. Now, sir, if I, who think the old writ totally annihilated; who think that its powers and authorities have been completely extinct since the 18th of May, had delivered such an opinion, there would have been nothing in it inconsistent; and I should certainly be for issuing a new writ in preference to a scrutiny, if the law, the reason of the thing, and the practice of parliament did not convince me, that the high bailiff having finished the election on the 17th, might make a return as of that day. But for the learned gentlemen who contend that the old writ is still in full vigour and force; who think that the high bailiff has acted constitutionally and legally, and that a scrutiny may go on after the return of the writ—for those gentlemen to assert, that issuing a new one would be the fitter measure, is indeed extraordinary. But, sir, against that position, that the house might order the scrutiny to proceed, as a measure of *lenity*, I beg leave directly to oppose myself! I beg leave to deprecate such lenity, such oppressive, such cruel lenity!

To issue a new writ is a severe injustice, and a great hardship; but if I am forced to the alternative, if I am driven to the necessity of choosing between two evils, I do implore the house rather to issue a

* The Lord Advocate and Mr. Hardinge,

new writ, than to order this scrutiny. Nothing can possibly be half so injurious, half so burthensome, half so vexatious to me, and to my friends, as this scrutiny : and it is evidently ineffectual, as it cannot be supposed that I should finally submit to the decision of a tribunal from which I have so little justice to expect. There is nothing, I assure the house, to which I should not rather resort, than to the *conscience* of Mr. Thomas Corbett ; upon whom, I do not expect, that the translation of scene from Covent Garden to St. Ann's, or proceeding upon a scrutiny instead of a poll, will operate such conversions, as to give me any hope of his displaying any other character, or appearing in any other light, than that in which I have seen him upon many occasions in his official capacity. Therefore, sir, if it be only the alternative, I beg that the issuing a new writ may be the alternative you will adopt. In that case, I assure the honourable gentleman,* that I shall immediately apply to him for one of the Chiltern Hundreds to vacate my seat for Kirkwall, and instantly throw myself, as my only chance for the honour of sitting in this house, upon the good opinion of the electors of Westminster ; who, in a season of phrensy and general delusion ; who, when artifice, fallacy, and imposture prevailed but too successfully in other parts of the country, discovered a sagacity, a firmness, and a steadiness superiour to the effects of a vulgar and silly clamour ; and who, upon the very spot, the very scene of action, manifested that they understood and despised the hypocrisy, the fraud, and falsehood which gulled and duped their fellow subjects in other places. In the event of a new election, I do anticipate future triumphs more brilliant, more splendid if possible, than those I had lately the honour of enjoying. Little fear do I feel of success with the electors of Westminster, who will not, I am sure, abandon me until I desert those principles which first recommended me to their favour !

* Mr. Pitt.

A person of great rank in this house* has thrown out a hint or threat, I know not which to call it, in a former debate, "that I should not again disturb the peace of the city of Westminster." Good God, sir! did any man ever hear such aggravating, such insulting insinuations? *I disturb the peace of Westminster!* Is that honourable gentleman not contented with breaking every law, with violating every statute, with overturning every analogy and every precedent, to accomplish this business; but must he, at the very moment he thus makes a deep breach in the English constitution, complete the catalogue of injury, by adding pertness and personal contumely to every species of rash and inconsiderate violence! I, I disturb the peace of this city, who have three times had the honour of representing it in this house! I, who was favoured with the free suffrages of its electors, long, long, before any of those who lately opposed me, were ever talked of, ever thought of for such a distinction! Every man qualified to sit in parliament, has a right to offer himself wherever he thinks proper; and it is indecent, daring, and audacious in any man, to insinuate that he ought not to disturb the peace of the place. I, therefore, hope, sir, that a language so peculiarly false and unbecoming towards me, and so directly repugnant to the genius and spirit of the constitution, will meet with the disapprobation it deserves *in* this house, as it certainly will be received with merited odium, and execration *out* of this house.

Upon the generous protection of the electors of this city, I shall certainly throw myself, in case of a new writ; and, in doing so, sir, well I am aware what a series of *various* difficulties I have to encounter. Expenses at elections, in despite of every effort to reduce them, still continue most exorbitant; and how ill matched in funds and *certain* inexhaustible resources, I stand with my opponents, is indeed very unnecessary to explain: but, Sir, it is not in the article of expenses that I should most dread the opera-

* Mr. Fox was supposed to allude to Mr. Pitt.

tion of that power that sustains my adversaries, that *power* which discovers itself in characters that cannot be mistaken, through every part of this transaction. I must be blind not to see, that the hand of government appears throughout this matter. When I consider the extreme care employed in preparing it for the measures which have been taken in this house, in consequence of it—when I consider the evident determination not to let it rest here—when I consider the extraordinary zeal and anxiety of particular persons in this house, to shelter and to sanctify this high bailiff—when I consider the situation of those who take the lead, and are most active in his vindication—when I consider the indifference of my adversaries to the expenses which result from this scrutiny; but which expenses must be a severe stroke upon the spirit and independence of those by whom I am supported—when I consider that all that artifice could dictate, and power could execute, have been exerted upon this occasion, I can have no doubt that the hand of a revengeful government pervades it all. The opposition of such a government upon an election, is a discouraging circumstance; and the likelihood of renewing again those events which I have witnessed within the last two months, is indeed a formidable and terrific prospect.

When I look back, sir, to all the shameful and shocking scenes of the Westminster election—when I consider that my enemies practised *all* that was possible of injustice, indecency and irreverence in their efforts to overwhelm me—when I consider the gross, the frontless prostitution of names too sacred to be mentioned—when I consider that all the influence of all the various branches of government was employed against me, in contempt of propriety and defiance of law—when I consider that a body of men was brought in the appearance of constables to the place of election, under the command of a magistrate, and against the express opinion of all the other magistrates of Westminster—that these constables broke that peace they were bound to preserve, and created

a riot, which proved fatal to one of their own body—when I consider that this was made the pretence of a wanton, and indecent, and unconstitutional introduction of the military, in violation of all that has been done by our ancestors, to keep sacred the freedom of election—when I consider that the lives of innocent men were deemed light and trivial impediments to the gratification of that implacable spirit of revenge, which appears through the whole of this business—when I consider that several men of the lower order of life, whose only crime was appearing in my interest, were confined for many weeks in a prison, and obliged to stand trial, and that others, of the higher rank, ingenious and amiable men, valuable for their qualities, respectable for their characters, distinguished for their abilities, and every way meriting the esteem of mankind, were also attacked without the show of a pretence, and obliged to undergo the ceremony of a publick acquittal from the foul crime of murder—when I consider that palpable perjury, and subornation of perjury were employed to accomplish the sanguinary object of this base conspiracy—when I consider that the malignity of my enemies has stopt at nothing, however gross and wicked, to ruin me and all that appeared in my interest—when I consider all this, sir, I cannot indeed but look with some anxiety to the circumstance of a new election.

I am not, it is well known, sir, of a melancholy complexion, or of a desponding turn of mind, yet the idea of again combating this host of oppressions might, in other situations, deter me from the risk. But I owe too much to the electors of Westminster; ever to abandon them from any dread of any consequences; and I do assure you, that I should conceive a new writ, with the hazard of all these hardships, as a great indulgence and favour, compared to that mockery, that insult upon judicature, a scrutiny under Mr. Thomas Corbett.

Sir, I have nothing more to say upon this subject. Whatever may be the fate of the question, it will be a pleasing reflection to me, that I have delivered

my opinions at full, upon a point so important to that great and respectable body of men, to whom I am so much indebted; and I sincerely thank the house for the honour of their patience and attention through so long a speech.

To the honourable gentleman over against me,* I will beg leave to offer a little advice. If he condemns this measure, let him not stoop to be the instrument of its success. Let him well weigh the consequences of what he is about, and look to the future effect of it upon the nation at large. Let him take care, that when they see all the powers of his administration employed to overwhelm an individual, men's eyes may not open sooner than they would if he conducted himself within some bounds of decent discretion, and not thus openly violate the sacred principles of the constitution. A moderate use of his power might the longer keep people from reflecting upon the extraordinary means by which he acquired it. But if the honourable gentleman neglects his duty, I shall not forget mine. Though he may exert all the influence of his situation to harass and persecute, he shall find that we are incapable of unbecoming submissions. There is a principle of resistance in mankind, which will not brook such injuries, and a good cause and a good heart will animate men to struggle in proportion to the size of their wrongs, and the grossness of their oppressors. If the house rejects this motion, and establishes the fatal precedent that follows that rejection, I confess I shall begin to think there is little to be expected from such a house of commons. But let the question terminate as it may, I feel myself bound to maintain an unbroken spirit through such complicated difficulties; and I have this reflection to solace me, that this unexampled injustice could never have succeeded, but by the most dangerous and desperate exertions of a government, which, rather than not wound the object of their en-

* Mr. Pitt.

imity, scrupled not to break down all the barriers of law ; to runcounter to the known custom of our ancestors ; to violate all that we have of practice and precedent upon this subject ; and to strike a deep blow into the very vitals of the English constitution, without any other inducement or temptation, or necessity, except the malignant wish of gratifying an inordinate and implacable spirit of resentment,

M. DE MIRABEAU'S SPEECH

ON THE RIGHT OF MAKING WAR AND PEACE : DELIVERED IN
THE NATIONAL ASSEMBLY, MAY 20, 1790.

ON the 14th of May, 1790, M. de Montmorin, minister for foreign affairs, made a communication by order of the king to the national assembly, of the warlike preparations in which Great Britain and Spain were then engaged, in consequence of their dispute concerning Nootka Sound, and of the precautionary measures which, under existing circumstances, he had thought proper to adopt.

After a discussion of the message, the following resolution, presented by M. De Mirabeau, was carried :

“ The national assembly decrees, that its president shall, in the course of the day attend the king, for the purpose of thanking his majesty for the measures he has taken for the preservation of peace. The assembly decrees, moreover, that, on to morrow the 16th of May, the order of the day shall be the question : *Ought the nation to intrust the king with the right of making war and peace?*”—Two opposite opinions, divided the assembly on this subject. The concession of the prerogative to the crown was strenuously advocated by one party, while the other,

with equal vehemence, contended for the policy of investing it exclusively in the legislative body. Wearied, however, by the contest which had been protracted for several days, the parties at length agreed to pursue a middle course, and the assembly accordingly resolved: "*That the right of announcing to the legislative body, the necessity of peace or war should be conceded to the monarch; and after a solemn deliberation, it should be declared on the part of the king of the French, in the name of the nation.*"

M. De Mirabeau maintains this doctrine, with some modifications, in the subsequent warm, energetic, and well reasoned speech.

SPEECH, &c.

IN rising to speak upon a subject, which, for these five days past, hath occasioned such long debates, my sole motive is to rectify the state of the question, which, in my mind, hath not been fixed where it should have been. Urgent peril at the present moment, dangers of no common magnitude in future, ought to have roused all the attention of patriotism: but this important question is likewise accompanied with a danger peculiar to itself. These words, war and peace, sound lofty to the ear, awake and deceive the imagination, inflame the most imperious of the passions, pride and courage, are connected with the grandest objects, victories, conquests, the fate of empires, above all, with liberty, with the duration of that infant constitution, which every Frenchman hath sworn to maintain. And when a question of publick right, presents itself with so imposing an aspect, what attention should not one pay to oneself, in order to reconcile, in so solemn a discussion, the cool reason, the profound meditation of the statesman, with that emotion, so excusable, which the fears that surround us must inspire?

Are we to delegate to the king, the exercise of the right of making war and peace; or ought we to attribute it to the legislative body? It is thus, gentlemen,

it is with this alternative, that hitherto the question hath been stated; and I confess that this manner of stating it, would render it a question not to be solved by me. I do not think that we can, without annihilating the constitution, intrust the king with the exercise of the right of making peace or war; as little do I think, that we can exclusively adjudge this right to the legislative body, without preparing for ourselves dangers of another kind, and equally to be dreaded. But are we under an obligation to make an exclusive choice? Can we not, in favour of one of the functions of the government, at once partaking both of action and of will, of execution and of deliberation, make the two powers, which constitute the national strength, and have been sanctioned by our constitution?

Before we come to any decision upon this new point of view, I must first examine, in concert with you, gentlemen, whether in the practice of war and peace, the nature of things, their irresistible progress, point not out to us the junctures, when each of the two powers may act separately, the points of contact where their cooperation commences, the functions which are common to them, and those which are peculiar, the moment for deliberation, and the moment which calls for action. Be assured, gentlemen, that such an inquiry will conduct us much more readily to the truth, than if we were to confine ourselves to simple theory.

And first, is it for the king or for the legislative body, to maintain foreign connexions, to watch over the safety of the empire, to make, or order the preparations necessary for its defence?

Should you determine this first question in favour of the king, and I know not how you can determine it otherwise, without creating in the same kingdom two executive powers, you are by that alone obliged to acknowledge, that, frequently, a first act of hostility shall be repulsed, before the legislative body hath had time to manifest any symptoms, either of approbation or disapprobation. Now, what is such act of hostility,

committed and repulsed, but a state of war, if not in will, at least in fact?

I pause at this first hypothesis, in order to make you sensible of its truth and of its consequences. A squadron is sent out for the protection of our colonies; troops are stationed upon our frontiers. You admit that these preparations, that these means of defence, appertain to the royal authority. Now if that squadron be attacked, if those troops be threatened, will they, ere they defend themselves wait till the legislative body shall have approved or disapproved the war? No undoubtedly. I conclude, from that single circumstance, that war exists, and that the signal for it hath been given by necessity. Hence it arises, that, in almost every case, there can be no room for deliberation, unless in order to determine, whether a first act of hostility shall be followed up with consequences, that is, whether the state of war should be continued. I say in almost every case; in fact, gentlemen, it will never become a question with the French, whose constitution hath so lately refined their ideas of justice, to make or to concert an offensive war, that is, to attack the neighbouring states, when those states give us no cause to complain of them. Upon this supposition, undoubtedly, deliberation should take the lead of preparation: but such a war ought to be considered as a crime, and I intend to make it a subject of an article of decree.

The point, then, under discussion relates only to a defensive war, where the enemy hath committed hostilities; and here we find ourselves in a passive state of war: or where, without hostilities having been as yet commenced, the preparations of the enemy give notice of the intention; and in that case, the peace being, by that single circumstance, disturbed, preparations of defence become on our part, indispensable.

There is a third case; which is, when it is necessary to determine, whether a right contested or usurped shall be resumed, or asserted by force of arms; and I shall not forget to enlarge upon it; but until then I do not see that there can be any occasion for the legis-

lative body to deliberate. The time will come, when the preparations for defence, exceeding the ordinary estimates, the necessity for making still greater preparations must be notified to the legislative body, and it is my purpose to state to you what are its rights in that case.

But how ! you will say, shall not the legislative body be at all times possessed of the power of preventing the commencement of the state of war ? No : for that would be like asking, whether there be any method of preventing a neighbouring nation from attacking us ; and what method should you take ?

Would you make no preparations ? you will not repel hostilities, but endure them. The state of war will remain the same.

Will you charge the legislative body with the care of making defensive preparations ? you will not thereby prevent the attack ; and how would you reconcile such action of the legislative body, with that of the executive power ?

Will you compel the executive power, to notify to you its most inconsiderable preparations, its most unimportant measures ? you will, by so doing, violate every rule of prudence. The enemy acquainted with all your precautions, all your measures, will make sport of them ; you will render preparations nugatory : it were better not to order them.

Will you limit the extent of the preparations ? But can you do so, with respect to all the points of contact, which connect you with Europe, India, America, the whole globe ? But must not your preparations be proportioned to those made by the neighbouring states ? But may not hostilities as well commence between two ships as between two squadrons ? But will you not be obliged to grant, every year, a certain sum, for unexpected armaments ? Must not that sum be according to the extent of your coasts, to the importance of your commerce, to the distance of your transmarine possessions, to the strength exerted by your enemies ? Nevertheless, gentlemen, I feel as forcibly as any one, how necessary it is to take care, that our

vigilance be not surprised by such difficulties : for it is of moment, that there should exist some check upon the executive power, to prevent it from abusing even the right of watching over our security ; from wasting immense sums in useless armaments ; from levying forces for itself, under pretence of leading them against an enemy ; from exciting, by too great an apparatus of defence, the jealousy or the fear of our neighbours. Undoubtedly we must guard against these evils ; but the natural course of events shows us how the legislative body may repress abuses of this kind ; for on the one hand, should there be a necessity for armaments more considerable, than the war extraordinary is equal to, the executive power may not undertake them, without being duly authorized ; and the right will remain with you, of insisting upon a negotiation of peace, of refusing the supplies demanded. On the other hand, will not the immediate notification, which the executive power shall be obliged to make respecting the state of war, whether impending or commenced, leave you all the means imaginable of watching over publick liberty ?

Here, gentlemen, I take in the third case of which I have spoken, that of a war to be undertaken, for the recovery or the conservation of a possession or a right ; a case which belongs to the description of war definite. It seems at first view, that, in such a hypothesis, the legislative body would have to deliberate even with respect to the preparations : but endeavour to apply this case, endeavour to realize this hypothesis. Is any right usurped or contested ? The executive power, charged with what relates to foreign connexions, attempts, at first, to recover the right by negotiation. Should this step prove unsuccessful, and the right be of importance, still leave to the executive power the right of preparing for defence ; oblige it to notify to the representatives of the nation, the usurpation complained of, the right which is claimed, in the same manner as it shall be obliged to notify a war impending or commenced. You will by these means establish a uniform course of procedure, in eve-

ry case; and I am now going to demonstrate, that it is sufficient that the co-operation of the legislative power commence, at the time of the notification of which I have just spoken, in order perfectly to reconcile the interest of the nation with the maintenance of the publick force.

Hostilities, then, are either commenced or impending. In that case, what are the duties of the executive power? What are the rights of the legislature?

I have just been declaring them; the executive power is to notify, without delay, the state of the war, either as existing, or as approaching, or as necessary; to make known its causes, to ask for supplies, to re-assemble the legislative body, if it be not already assembled.

The legislative body in its turn hath four sorts of measures to take. The first is to inquire whether, hostilities being commenced, our ministers or some agent of the executive power, have not been the culpable aggressors. In such a case, the author of the aggression should be impeached as guilty of high treason against the nation. Make such a law, and you will confine your wars to the sole exercise of the right of just defence; and you will have done more for publick liberty, than if, in order to attribute the exclusive right of war to the representative body you should lose the advantages derivable from royalty.

The second measure is, to approve, to determine upon the war, if it be necessary, to disapprove it, if it be useless or unjust; to require the king to set on foot a negotiation for peace, and to compel him to that measure, by refusing the supplies, and in this, gentlemen, consists the true right of the legislative body. Here the powers are not confounded, the forms of the different branches of the government are not violated, and the national interest is preserved. But further, gentlemen; when I propose the approbation or disapprobation of the war, by the legislative body, while I refuse it the exclusive right of deliberating on war and peace, do not imagine that,

by so doing, I am eluding the question, or exhibiting the same subject of debate in a different form. The exercise of the right of making peace and war, is neither simply an action, nor yet merely an operation of the will; on the contrary, it is connected with both these principles: it requires the concurrence of the two powers; and the whole theory of this question consists only in assigning, to the legislative body and to the executive power respectively, the kind of co-operation which from its nature, is most proper for it. To give the legislative body the exclusive deliberation upon peace and war, a right which, in ancient times, was enjoyed by the Roman senate, a right enjoyed in modern days by the states of Sweden, by the diet of Poland, by the confederation of Holland, were transforming the king of France into a stadtholder, or a consul; it were selecting from the two delegates of the nation, that delegate which, however unceasingly purified by the choice of the people, by the continual renovation of the elections, nevertheless cannot solely and exclusively deliberate, with any degree of usefulness, upon an occasion of that nature. On the contrary, to confer upon the legislative power the right of deliberating in the shape of approbation, disapprobation, requisition of peace, prosecution of a guilty minister, refusal of supplies, is allowing it to cooperate in the exercise of a national right, by the means which are suited to the nature of such a body.

This difference, then, is very remarkable, and leads to the desired end, by preserving the two powers in their entire perfection; whereas otherwise, you would lie under the pernicious necessity of making an exclusive choice, between two delegates which ought to proceed hand in hand.

The third measure of the legislative body, consists in a continuation of the means which I point out, and the right of which means I assign to it.

The first of these means is, to admit of no recess, as long as the war continues.

The second, to prolong the session, in the case of an impending war.

The third, to assemble the national guard of the kingdom, in such numbers as shall be deemed necessary, whenever the king shall carry on a war in person.

The fourth (even after having approved the war) to require, as often as it shall be deemed expedient, the executive power to negotiate a peace.

I pause for a moment upon the two means last mentioned, as they display in perfection the system which I propose.

On account of the possible danger, in appropriating the deliberations on war directly and exclusively to the legislative body, some maintain that the right of war and peace appertains to the monarch alone: they affect even to doubt, that the nation can lawfully dispose of this right, although she hath had the power of delegating the sovereignty. What? is it, indeed, a matter of no importance in their eyes, to place beside the constitution an unlimited authority, always able to overwhelm it? Do they wish to cherish this constitution? Would they render it immortal like justice and reason?

On the other hand, because the cooperation of the monarch, in exercising the right of making peace and war, may be attended with danger (and, in fact, it is the case) others give it as their opinion, that we ought to deprive him of even the right of cooperation. Now, are they not in this, desiring an impossibility, unless you take away from the king the preparations for peace and war? Are they not desiring what is unconstitutional, since your decrees have allowed the king a sort of cooperation, even in acts which are purely legislative? For my part, I am establishing the counterpoise of the dangers, which may arise from the royal power, in the constitution itself, in the balancing both powers, in the concurrence of the two delegates of the nation, in the internal force which you will derive from that national guard (the only counterpoise suited to a representative government) against an army stationed on the frontiers. Congratulate yourselves, gentlemen, on

this discovery. If your constitution be unshakeable, it is to such an equilibrium that you will be indebted for its stability.

Again : in conferring upon the legislative body, even after it hath approved the war, the right of requiring the executive power to negotiate a peace ; for that were to relapse into all the inconveniences of which I have already made mention. Who shall know the critical moment to think of making peace, if it be not he who holds the head of all political relations ? Will you determine, likewise, that the agents employed for that purpose shall correspond with none but you ? Are you to issue instructions to them ? Are you to answer their despatches ? Are you to dismiss them and appoint others in their room, should they fail to fulfil your expectations ? Will you disclose, in the course of solemn debates, demanded by some member of the legislative body, the secret motives by which you are actuated in your endeavours to make peace, which would frequently prove the most certain method of not obtaining it ? And even when our enemies shall desire peace as much as we, is your loyalty to impose a law on your prohibiting all concealment ; and will you likewise force the envoys of the powers then at variance with you, to the noise and notoriety of a publick debate ?

I distinguish, then, the right of requiring the executive power to make peace, from an order issued for its conclusion, and for the exclusive exercise of the right of making peace ; for is there any other mode of acting up to the national interest, than that which I am proposing ? When war is commenced it is no longer in the power of a nation to make peace ; will even the order for withdrawing the troops arrest the progress of the enemy ? Should one be disposed to make some sacrifices, can one tell whether the conditions will not prove so oppressive that honour must forbid their being accepted ? Nay, supposing the negotiations for a peace already opened, will a cessation of the war ensue, as the necessary and immediate consequence ? It is, then, the province of the executive

power, to choose the proper juncture for entering upon negotiation, to prepare for it in silence, to conduct it with ability. It is the province of the legislative power to beseech the executive, to attend without intermission to that momentous object; it is for the legislative power to punish the guilty minister or agent, who, invested with such a function, should neglect to fulfil its duties; it is also for the legislative power to ratify the treaty, as soon as the articles are agreed upon. These, gentlemen, are the limits which the interest of the publick does not suffer us to transgress, and which the very nature of things hath marked out for us.

In fine, the fourth measure of the legislative body is, to redouble its attention, in order to reduce, incontinently, the publick force to its permanent footing, as soon as the war is at an end. Issue orders for disbanding incontinently the regiments extraordinary; appoint a short day for their separation; limit the continuation of their pay to that term; render the minister responsible; pursue him as a criminal, if orders so important be left unexecuted: this, too, is what the interest of the publick prescribes to you.

I have followed, gentlemen, the same line of questions, in inquiring to whom ought to belong the right of forming treaties of alliance, of commerce, and all those other conventions which may be necessary to the well-being of the state. I first asked myself, whether we ought to renounce making treaties; and this question is reduced to the inquiry, whether in the actual state of our commerce and that of Europe, we should leave to chance the influence of the other powers over us, and our reaction upon Europe; whether, because we shall on a sudden change our political system (and indeed how many errors, how many prejudices shall we not have to overturn!) we shall oblige other nations to change theirs; whether, for any long time, our peace and that of the other powers of Europe can be otherwise preserved, than by a balance which forbids the sudden confederacy, of several nations against one? The time will come,

undoubtedly, when we shall have friends only and not allies, when liberty of commerce will be universal, when Europe will be only one great family; but hope too hath her enthusiasm; shall we be so fortunate as to find, that the miracle to which we are indebted for our freedom, should, at the self same time, be brilliantly repeated in both hemispheres?

If, however, treaties we must have, he alone may prepare them, conclude them, who shall possess the right of negotiation: for I do not see how it can be either useful, or conformable to the foundations of our government already consecrated, to enact, that the legislative body shall communicate with foreign powers, without any intervening agent. Those treaties will be notified to you immediately; those treaties will be in force, only so far as the legislative body shall have approved them. Here again, then, you have before you the just limits of that concurrence, between the two powers, the executive and the legislative. Nor will it ever be sufficient, to refuse your approbation to a treaty of a dangerous tendency; the responsibility of ministers presents you with the means, of likewise punishing the guilty author of that treaty.

I am not inquiring whether it were more advantageous, that a treaty should not be concluded, until after it had been approved of by the legislative body: for is it not evident that the result is the same, and that it is much more advantageous to ourselves, that a treaty should become irrevocable, on the sole account that it shall have been ratified by the legislative body, than that, even after approbation given, the other powers should still be at liberty to reject it?

And are there not some other precautions to be taken with regard to treaties; and were it not becoming the dignity, the loyalty of a national convention, to determine before hand, for this and for all other nations, not what treaties may be permitted to comprise, but what they never shall comprise in any respect whatever?

My thoughts upon this point coincide with the opinion of several who have already spoken. I am for having it declared, that the French nation renounces conquest of every shape and kind, and that it never will employ its force against the liberty of any people.

Such gentlemen, is the system which I have formed in my own mind, respecting the exercise of the right of war and peace. But I must offer some additional motives for my opinion ; I ought especially to make known, why I am so forcibly attached to the idea of giving the legislative body, only a cooperation necessary to the exercise of that right, instead of assigning it to that body exclusively. The cooperation which I have mentioned, can alone prevent all those dangers.

And in the first place, to show you that I have not shut my eyes against any objection, the following is my creed, as to the theory of the question, considered independently of its political relations. Undoubtedly, peace and war are acts of sovereignty, belonging to the nation alone. Can this principle be denied, unless we take for granted that nations are slaves ? But the question does not turn upon the right itself : the question is concerning the delegation.

Again : although all the preparations and the whole direction of war and peace appertain to the action of the executive power, it cannot be denied that the declaring war and peace, is an act of pure will ; that every act of hostility, every treaty of peace, may be, in some measure, thus interpreted : I, the nation, make war ; I, the nation, make peace ; consequently how can one man alone, how can a king, a minister, become the organ of the general will ? How can the executor of that general will be at the same time its organ ?

Equally am I aware of all the dangers which can arise, from intrusting a single person with the right or rather with the means of ruining the state, or disposing of the citizens, of risking the safety of the empire, of bringing down upon our heads, like some mischievous imp of darkness, every scourge which is the

companion of war. And here, like so many others, have I summoned to my recollection, the names of those wicked ministers, who kindled accursed wars, either to render themselves necessary, or to keep a rival at a distance. Here have I beheld all Europe in a flame, only because the glove of a dutchess was not picked up the very moment she dropped it. I represent to my imagination this warrior king and conqueror, attaching to himself the soldiery by corruption and success, tempted to re-become a despot on arriving in his own territory, cherishing a party within the empire, and overturning the constitution with that very hand, which had been armed by the constitution, and by the constitution only.

Well, gentlemen, let us consider of these objections, let us inquire, whether the means proposed for warding off these dangers, will not pave the way for other dangers not less formidable, not less fatal to publick liberty.

I have but one word to say as to the principles. Undoubtedly, the king is not the organ of the publick will, but neither is he a stranger to the declaration of that will. Accordingly, in confining myself to require the cooperation of the two delegates of the nation, I am perfectly acting up to constitutional principles.

Again: I wish you to take notice, that, in inquiring whether the right of sovereignty, should be appropriated to this or that delegate of the nation, in preference to the other, to the delegate called the king, or to the delegate gradually purified and renewed, which is named the legislative body, we must banish all trite notions of any delegate being superiour to control; that it is the privilege of the nation to prefer which delegate she pleases, for the execution of such individual act of her will; that the sole question therefore is since we determine the choice, to consult not the national pride, but the publick interest, the only ambition that should inspire a great people, and the only one that is worthy of it. All subtlety there-

fore disappears, in order to make room for this question :

By whom is it most useful that the right of making peace or war should be exercised ?

Observe, moreover, that this point of view is a stranger to my system ; it is for those to answer the objection of unaccountability, who are inclined to attribute exclusively to the king, the exercise of the right of making war and peace ; but I combat this system, in concert with all good citizens. An exclusive right is talked of ; and I am talking of only cooperation.

The danger of each system is now displayed before our eyes.

I put the question to yourselves : shall we be better assured of having none but just and equitable wars, if the exercise of the right of making war be exclusively delegated to an assembly of seven hundred persons ? Have you foreseen how far excited passions, to what lengths towering courage and mistaken dignity, may carry and even justify, imprudence ! We have heard one of our orators propose to you, should England unjustly attack Spain, to cross the seas incontinently, to overwhelm one nation upon the other, to play out the game to the last livre, to the last man, with those imperious English in the very heart of London,—and we all applauded what he said. I caught myself in the very fact of applauding him ; and a transport, the result of eloquence, sufficed to impose, for a moment upon our wisdom. Do you imagine that such transports, should the legislative body ever deliberate directly and exclusively, will not hurry you into wars fraught with infinite disasters, and that you will never confound the counsels of courage with the counsels of experience ? While one of your members is proposing deliberation, his voice will be drowned in the clamour for a war ; you will see yourselves surrounded by battallions of armed citizens. You are not likely to be deceived by ministers ; shall you never be deceived by yourselves ?

There is yet a danger of another kind, which is peculiar to the legislative body, when exercising exclusively the right of peace and war; and that is, that such a body cannot be subjected to any sort of responsibility. I am well aware that a victim, is a feeble satisfaction for the crimes of an unjust war; but when talking of responsibility, I am not talking of revenge. This minister, who you suppose is to conduct himself according to caprice alone, must expect to be brought to trial, his head shall be the price of his imprudence. You have had more than one Louvois under the fostering care of despotism; are you to have a second brood of them, under the auspices of liberty?

Some talk of publick opinion, as a restraint upon the representatives of the nation; but publick opinion frequently led astray, even by sentiments worthy of panegyrick, will serve only to seduce you; but publick opinion does not separately influence each member of a great assembly.

That Roman, who, bearing war in the folds of his gown, threatened, while he unrolled them, to scatter every scourge of war upon the enemy, must have felt the full importance of his mission. He stood alone; a mighty destiny was in his hands; he was the messenger of terrour; but had the crowded senate, which, in the midst of a stormy and impassioned debate, despatched him on that embassy, experienced that fear, which the doubtful, the dreadful issue of the war should have inspired? You have been already desired, gentlemen, to cast your eyes upon free states; it was by wars the most ambitious, the most barbarous, that they were perpetually distinguished.

Cast your eyes on political assemblies; it hath always been under the magick influence of passion, that they have decreed war. You are all acquainted with the anecdote of the sailor, who, in the year 1740, determined England to resolve upon a war with Spain. When the Spaniards, after mutilating me, were for putting me to death, I commended my soul to God, and my vengeance to my country. The sailor was

a true orator ; but the war which he kindled was neither politick nor just ; neither the king, nor the ministry of England were inclined to it. The emotions of an assembly, though less numerous, and more liable than ours to the combinations of insidious policy, decided in that affair.

Attend now to still more important considerations. Are not you apprehensive, gentlemen, of the internal dissensions which an unexpected debate on war, war undertaken without the king's concurrence, by the legislative body, might give birth to, not only within its own walls, but likewise throughout the kingdom ? Frequently when two parties shall violently embrace opposite opinions, the deliberation will be the fruit of an obstinate struggle, decided merely by a few suffrages ; and, in such a case, should the same spirit of division take possession of the publick mind, what success are you to hope for, from a war which a great part of the nation disapproves ? Observe the diet of Poland : not seldom a debate on war only begets a civil war amongst themselves. Turn your view to what hath just passed in Sweden. In vain hath the king contrived to extort the suffrages of the states ; the dissidents have nearly gained the guilty success of rendering the war abortive. Already had Holland presented the same spectacle. War was declared against the wish of a simple stadtholder : what fruit have we reaped from an alliance which had cost us so much care, so much treasure ? We are going, then, to sow the seeds of civil dissensions in our constitution, if we confer on the legislative body the exclusive exercise of the right of war ; and, as the veto suspensive which you have granted to the king, could not in any wise be applied to such deliberations, the dissensions of which I speak will prove only the more formidable.

I pause, gentlemen, for an instant, upon the reflection just made, in order to give you to understand, that, in the practice of governments, one is often obliged to depart, and that too for the publick interest, from the rigid purity of philosophical abstraction.

You yourselves have decreed, that the executor of the national will, should, in certain cases, enjoy the right of suspending the effect of the first manifestation of that national will; that he might appeal from the known will of the representatives of the nation to the presumed will of the nation itself. Now if we have given such a concurrence to the monarch, even in legislative acts, which are so foreign to the action of the executive power, how, if we follow the chain of the same principles, can we avoid making the king cooperate, I do not say merely in the direction of the war, but in the deliberation on the war?

Let us ward off, as we ought, the dangers of civil dissensions. Will you as easily avoid the danger, resulting from the slowness of deliberations on such a subject, unless you confine the object to those cases only where the concurrence, or the will of the legislative body, is become indispensable? Are you not apprehensive, that your publick force may be palsied, as is actually the case in Poland, in Holland, and in every republic? Are you not apprehensive, that this slowness may yet increase, either because our constitution is insensibly taking the form of a grand confederation, or because the departments must unavoidably acquire a vast influence over the legislative body? Are you not apprehensive, that the people, hearing that its representatives are making a direct declaration of war in its name, may not thereby receive a dangerous impulse towards democracy, or, what is still worse, towards oligarchy; that the inclination for war or peace may originate in the very provinces, be soon after displayed in petitions, and impart to a mighty mass of men, that agitation which so important an object is capable of exciting? Are you not apprehensive that the legislative body, notwithstanding its wisdom, may be driven to overleap the boundaries of its powers, by the almost inevitable consequences attending the exclusive exercise of the right of war and peace? Are you not apprehensive, that in order to second the successful efforts of a war, which it shall have voted without the cooperation of the

monarch, it may be desirous of influencing the direction of that war, the choice of generals, particularly where any ill success can be imputed to them; and that this resistless vigilance, which, in fact, were a second executive power, may encroach upon the province of the supreme head of the nation?

Again: do you count as nothing the inconvenience of an assembly not permanent, obliged to reassemble at the time which should be employed in deliberation; the uncertainty, the hesitation which will accompany every step taken by the executive power, which will never know how far the provisional orders may extend; the inconveniences of even a publick and unexpected debate, upon the motives for making preparations for war or peace; a debate of which all the secrets of state (and such secrets we shall have for a long time to come) often form the elementary matter?

In fine, do you esteem as nothing, the danger of introducing republican forms into a government which is at once representave and monarchical? I beseech you to consider this danger, with reference to the constitution, to ourselves, and to the king.

With respect to the constitution, can we hope to preserve it, if we compose our government of different forms, at variance with one another? I myself have maintained, that there exists but one sole principle of government for all nations, I mean their own sovereignty; but it is not less certain, that the different modes of delegating the powers bestow on the governments of different nations, different forms, the union, the tout ensemble of which constitute their whole force, and the opposition of which, on the other hand, gives birth to an eternal spirit of discord in a state, until the form which predominates have overturned all the rest; and thence arise, independently of despotism those convulsions which prove the downfall of empires.

Rome owed her destruction to this mixture of royalty, aristocracy, and democracy. The tempests which have often agitated several states of Europe,

were derived from no other origin. Men adhere to the distribution of the powers, the powers are exercised by men; men, abusing an authority not sufficiently restrained, overleap its boundaries. Thus it is that monarchy exalts itself into despotism: and here you have a reason why we should take so many precautions. But thus it is, also, that representative government degenerates into oligarchy, whenever two powers, intended to counterpoise each other, make encroachments, and mutually invade, instead of mutually restraining.

Now, gentlemen, excepting the single case of a republick properly so called, or of a grand confederation unprovided with a sole chief, or a monarchy where the chief is reduced to a splendid cypher, quote me an instance of any nation, which had assigned the exercise of the right of war and peace, exclusively to a senate. It may be proved very well, in theory, that the executive power shall preserve its full force, if all the preparations, all the direction, all the action belong to the king; and if the legislative body have only the exclusive right of saying, I will have war, or I will have peace. But show me how the representative, pressing so closely on the executive power, can avoid overstepping the almost imperceptible limits which occasion their separation. I am sensible that the separation still exists. Action is not will; but this line of demarkation is much more easily demonstrated than preserved; and is it not running the hazard of confounding the two powers, or rather is it not confounding them already, in the real practice of civil polity, to suffer them to approach so nearly to each other? Besides, is it not departing from those principles, which already have been sanctioned by the constitution?

If I examine the inconveniences, resulting from the exclusive right given to the legislative body, as far as it respects ourselves, that is, with respect to the obstacles, which the enemies of the publick good have opposed unceasingly to your career, what a multitude of new adversaries are you not going to stir up,

amongst those who have hoped to reconcile all the energy of liberty, with the exercise of the royal prerogative? I am speaking of those only, not of the flatterers, not of the courtiers, not of those degenerate beings who prefer despotism to liberty; not of those who, in this tribune, have had the assurance to maintain, that we had no right to alter the constitution, or that the exercise of the right of peace and war, is inseparable from royalty, or that the council so often corrupted, which, like satellites, surrounds kings, conveys with more fidelity the publick sense of interest, than representatives elected by the people. It is not of such blasphemers, nor of their impious tenets, nor of their impotent attempts, that I am inclined to make mention; but of those men, who, formed for liberty, are in dread, nevertheless, of the commotions incident to popular states, of those men who, after having considered the permanence of a national assembly, as the sole barrier against despotism, consider also the royal power as a useful barrier against aristocracy.

In fine with reference to the king, with reference to his successors, what will be the inevitable effect of a law, which centered exclusively in the legislative body, the right of making peace or war. To weak kings the privation of authority will prove only a cause of discouragement and inactivity; but is the royal dignity, then, no longer to make a part of the nation's property? A king encompassed with perfidious counsellors, perceiving himself to be no longer on an equality with other kings, will imagine himself dethroned; he might be insensible of his loss, until persuaded of it by others; and things owe all their value, and to a certain degree, their reality, to opinion alone. An upright monarch will believe, that, at least the throne is environed by quicksands and all the springs of the publick force will lose their elasticity. An ambitious prince, discontented with the lot which the constitution hath assigned to him will become the enemy of that constitution, of which he ought to be the guarantee and guardian.

Must we then, on this account return to our late slavery? must we, in order to lessen the number of the malecontents, stain our immortal constitution by the adoption of false measures, by the adoption of false principles? This is not what I propose, since, on the contrary the question is, whether the double cooperation which I allow to the two powers, the executive and the legislative, in the exercise of the right of peace and war, were not more favourable to national liberty.

Imagine not that I have been seduced by the example of England, who leaves to her king the entire exercise of the right of making war and peace. I myself condemn this example.

In England, the king is not confined to the repulsing of hostilities; he commences them; he orders them; and I, on the contrary, propose to you to prosecute as criminals, the ministers or their agents, who shall have made offensive war.

In England, the monarch declares war by a simple proclamation in his own name, and such a proclamation being an undoubted national act, I am very far from thinking, either that it should be made in the king's name, in a free nation, or that there can be a declaration of war without the concurrence of the legislative body.

In England, the king is not obliged to convoke the parliament, at the commencement of a war; and frequently during a long interval, the legislative body unassembled, is deprived of all means of influence; while the monarch, displaying all the force of the empire, embarks the nation in measures, which she will be incapable of preventing, when at length she is consulted. On the contrary I propose to oblige the king to notify incontinently, the hostilities either impending or commenced, and to decree that the legislative body shall be then instantly reassembled.

In England, the head of the state can make war for his own aggrandizement, for the sake of conquest: that is, in order to exercise the trade of tyranny. On the contrary, I propose to you to declare, to all Eu-

rope, that you will never employ the publick force against the liberty of any nation.

In England, the king experiences no other obstacle, than the refusal of parliamentary supplies ; and the enormous debt of the nation is an ample proof, that that barrier is insufficient, and that the art of impoverishing nations is an engine of despotism, equally formidable with any other. On the contrary, I propose to you to appropriate to the legislative body the right of approving or disapproving the war, of preventing any recourse being had to force of arms, when there hath not yet been any hostility ; and the right, even after the war hath met with approbation of requesting the monarch to negotiate a peace.

In fine, the militia of England is not organized in such a manner, as to counterpoise the publick force, which is entirely in the hands of the sovereign. Now, I propose, on the contrary, that, in case the king makes war in person, the legislative body shall be invested with the right of assembling such a portion of the national guard, and in such place, as it shall deem expedient. And, undoubtedly, should this precaution appear dangerous or useless, you will at least organize that internal force in such a manner, as to form an army for the defence of publick liberty, as you have already raised one for the protection of your frontiers.

Let us now see whether there still remain any objections, which I have not overturned in the system which I oppose.

The king, then, it is said, will be able to carry on unjust wars, wars which are anti-national ! But such an objection, gentlemen, cannot be pointed against me, who am for granting to the king only a simple cooperation, in the exercise of the right of war ; and I would fain know from yourselves, how anti-national wars could have any place in my system. Can you really and truly deny the influence of a legislative body, continually present, continually on the watch, which will have it in its power not only to refuse supplies, but also to approve or disapprove the war, but also to request a

negotiation of peace? Nay more: do you account as nothing, the influence of a nation organized in every part, and which is perpetually to exercise the right of petitioning according to legal forms? A despotick monarch might be arrested in his progress; and shall not a citizen king, a king placed in the midst of an armed people, be subject to the like control?

It is asked, who is to watch over the kingdom, when the executive power shall put in motion all its force? I answer, the law, the constitution, the equilibrium ever maintained between the force internal and the force external.

It is said, that we are not cut out for liberty, like the English; but we are possessed of greater means for the preservation of liberty, and therefore I propose greater precautions.

Our constitution is not yet established. A war may be lighted up, with no other view than to gain a pretext for calling out a mighty force, and for soon turning that force against us. Well, let us pay a proper attention to such fears; but let us distinguish the present moment from the durable effects of a constitution, and let us not consider as everlasting, the provisional dispositions, which the extraordinary circumstance of a grand national convention may suggest to us. But, if you carry the distrust of the moment into futurity, have a care that, by dint of exaggerating our fears, we render not the preservatives worse than the very malady; and that instead of uniting the citizens by the bond of freedom, we do not split them into two parties, ever ready to conspire one against the other. If at every step we take, we be threatened with the resuscitation of departed despotism; if the dangers from a very minute part of the publick force, be incessantly opposed as an objection, notwithstanding the millions of men who are in arms for the constitution, what other line of action then remains? Let us perish this very instant. Let us overwhelm the vaulted roofs of this temple upon our heads, and, to day expire freemen, if to morrow we must be slaves.

We must, it is further said, restrain the use of the publick force in the hands of the monarch. I think as you do, and we differ only as to the means. Beware lest, in endeavouring to restrain his hands, you prevent them from acting altogether.

But, according to the rigour of principles, can a state of war ever commence, without the nation's having determined upon the propriety of the measure?

To this I answer : the interest of the nation is, that all hostility be repelled by him who hath the direction of the publick force. This is what I understand by a state of war. The interest of a nation is, that the warlike preparations made by neighbouring powers, be balanced by preparations on our side. Here again is the state of war, under another point of view. No deliberation can precede such events, such preparations. It is when hostility, or the necessity of defence by force of arms, which comprehends every case, shall be notified to the legislative body, that it will take the measures which I propose ; it will approve or disapprove ; it will request a negotiation of peace ; it will grant or refuse the necessary supplies ; it will impeach the ministers ; it will arrange the internal force ; it will confirm the treaty of peace, or will refuse to ratify it. I know of but this one mode, of allowing the legislative body a useful cooperation, in the exercise of the right of war and peace ; that is, a mixed power, participating at once of action and of will.

But will not the preparations also which are to be left in the king's hands become a dangerous instrument ? Undoubtedly they will : but it is a danger unavoidable in every system. It is very evident, that in order to concentrate, usefully, in the legislative body, the exclusive exercise of the right of war and peace, we must leave it also the care of superintending the preparations. But can you do so, without altering the form of government ? and if the king is to be charged with the preparations ; if he is obliged, by the nature and extent of our possessions, to distribute that warlike apparatus afar off, must we not therefore allow him a great latitude in the means ? Would not

limiting the preparations be the same thing as destroying them? Now, I ask you, whether, when the preparations are in being, the commencement of the state of war depend on us, or upon chance, or on the enemy? I ask you, whether, frequently, several battles shall not have been fought, before the king can know a syllable of the matter, before any such hostile measures can be notified to the nation?

But might not the legislative body be allowed a concurrence in the preparations for a war, for the purpose of diminishing the danger of such preparations? Might not a committee of the National Assembly be appointed to keep an eye on them? Have a care, gentlemen; we shall confound all the powers, by confounding action with will, direction with law. The executive power would ere long become only the agent of a committee. We should thus assume the function not only of legislating, but likewise of governing; for what limits can you assign to this concurrence, to this superintendence? In vain would you assign any; in spite of all your forecast, they will every one be violated.

Have a care too, with regard to another point. Are you not afraid of palsyng the executive power, by this cooperation of means? In matters relative to execution, what is to be the work of many is never well done by any. Besides, where, in such an order of things, are we to look for that responsibility which ought to be the ægis of our new constitution?

In fine, have we nothing to fear from a king, who, masking his schemes of despotism under the appearance of a necessary war, should reenter the kingdom at the head of a victorious army, not in order to resume his post of king-citizen, but for the purpose of repossessing himself of the iron throne of tyranny?

Well, then, what is likely to happen? I suppose that a warrior-king and conqueror, uniting with military talents the vices which corrupt men, and the amiable qualities which captivate them, is not at all a prodigy, and that it behoves us by sage laws, to provide against such prodigies.

I go upon the supposition, that some corps of a national army, may not possess sufficient patriotism and virtue to resist a tyrant, and that such a king might find it as easy to lead the French against the French, as Cesar did (and Cesar was not born a king) to prevail upon a few Gauls to pass the Rubicon. But let me ask you, whether this objection be not applicable to all the systems, and whether we shall never have need to arm a numerous publick force, because the exclusive exercise of the right of war and peace, shall be vested in the legislative body?

Let me ask you, whether, by such an objection, you are not precisely introducing into monarchies, the inconveniences peculiar to republicks? For it is chiefly in popular governments that such successes are to be dreaded. It was amongst nations which had no kings, that such successes paved the way to royalty. It was to Carthage, it was to Rome, that such citizens as Hannibal and Cesar, became dangerous. Whether the hopes of ambition dry up her sap, or blast her, let a monarch have nothing to sigh for, but that in which the law can gratify him; make his majesty what it ought to be, and indulge no further fears, that a royal rebel, abdicating his crown, may run the risk of hurrying from a victory to the scaffold.

It were difficult and even useless, to continue a debate, already but too long, amidst applause and disapprobation, alike extravagant, alike unjust. I have spoken, because I deemed that it was not for me to dispense with speaking, upon an occasion of such importance. I have spoken according to my conscience and my opinion. I owe to this assembly only what I consider as truth, and I have uttered the truth. I have uttered, it perhaps, rather boldly, while wrestling with potent adversaries. I were unworthy of the office wherewith I am intrusted; I were unworthy of being numbered amongst the friends of liberty, should I dissemble my sentiments, while inclined to a middle party, between the opinion of those whom I love and hold in honour, and the counsels

of men who have been most at variance with me since the commencement of this assembly.

You have grasped my system. It consists in assigning a concurrent exercise of the right of making war and peace, to the two powers which have been sanctioned by the constitution. I think I have combated with advantage, the arguments likely to be adduced upon this question, in favour of the exclusive systems. There is but one unanswerable objection, which hath place in all their systems, and equally in mine, and which will ever embarrass the various questions, that shall touch upon the confusion of the powers; and that is, how to determine upon the means of obviating the last degree of the abuse. I know of but one: one, and but one, will be discovered, and I shall denote it by this trite, and perhaps inelegant allusion, which I have already allowed myself to make use of in this place, but which describes my idea exactly. It is the *alarm-bell* of necessity, which alone can give the signal, when the moment is arrived for fulfilling the imprescriptible duty of resistance; that duty ever imperious when the constitution hath been violated, ever triumphant when the resistance is just, and truly national.

I am now going to read to you my plan of the decree: it is not good; it is incomplete. A decree upon the right of war and peace, will never truly become the moral code of the law of nations, until you shall have constitutionally organized the army, the fleet, the finances, your national guards, your colonies. It is my earnest desire, then, that gentlemen will perfect the scheme which I have drawn out, it is my desire that they will propose to us a better. I will not attempt to conceal the sentiments of diffidence, with which I present it to you; I will not conceal, too, my profound regret, that the man who hath laid the foundation of the constitution, and who hath contributed the most to your immortal work, that the man who hath revealed to the world the true principles of representative government, condemns himself to a silence which I deplore, which I esteem

criminal, however ungratefully his immense services may have been repaid, that the Abbé Sieyès—I ask his pardon for naming him—does not himself advance to insert in the constitution one of the greatest springs which actuate the state of civil polity. I am the more grieved at this dereliction, since, crushed under a weight far above my strength of intellect, incessantly called away by that recollection and meditation, which are the prime powers of man, I had not directed my attention to this question, accustomed as I was to rely upon that illustrious thinker, for putting his last hand to his own admirable workmanship. I have pressed him, conjured him, entreated him as a suppliant, in the name of that friendship with which he honours me, in the name of patriotism, that sentiment otherwise so sacred and full of energy, to endow us with his ideas, not to leave such a vast chasm in the constitution. He refused me; I tell it openly. I conjure you, however, to call upon him for his opinion which ought not to be kept secret; to tear, at length, from the arms of discouragement, a man whose silence and inaction I consider as a public calamity.

After this declaration, for the candour of which at least you will give me credit, if you will dispense with my reading my plan of the decree, I shall be grateful for the indulgence. [Read, read.] You are determined, then, that I shall read it: bear in mind that I do so in obedience to your command, and that I have not the courage to risk your displeasure, in my zeal to do you service.

I move you to decree the following as constitutional articles:

Article I. The right of making war and peace belongs to the nation.

II. The care of watching over the external security of the empire of maintaining its rights and its possessions, belongs to the king; accordingly, for him alone shall it be lawful to keep up political connexions with foreign powers; conduct negotiations; make choice of the proper agents to be employed in

such affairs; make warlike preparations proportioned to those made by the neighbouring states; distribute the forces by sea and land, in such manner as he shall deem expedient, and regulate the direction of them in case of war.

III. In the case of hostilities impending, or commenced, of an ally to be supported, of a right to be asserted by force of arms, it shall be incumbent on the king to notify, without delay, such circumstance to the legislative body, to make known the causes and the motives and to ask for the necessary supplies: and should the necessity of such notification arise during the recess of the legislative body, that body shall be immediately reassembled.

IV. If upon such notification, the legislative body deem, that the hostilities commenced by a criminal aggression on the part of ministry, or of some other agent of the executive, the author of such aggression shall be impeached as guilty of treason against the nation; the national assembly declaring, to that end that the French nation renounces conquest, of what kind soever it be, and that it will never employ its force against the liberty of any state.

V. If in the case of the said notification the legislative body refuse the necessary supplies, and manifest its disapprobation of the war, it shall be incumbent on the king to take such measures, immediately as may prevent, or put a stop to all hostilities, the ministers remaining responsible for delays.

VI. The formulary of the declaration of war, and of the treaties of peace, shall be, on the part of the king of the French, and in the name of the nation.

VII. In the case of an impending war, the legislative body shall extend its session into the customary intervals of recess, and may continue to sit, without any recess, as long as the war shall endure.

VIII. During the whole course of the war, it shall be lawful for the legislative body to request the executive power to negotiate a peace, and, in case the king shall head the army in person, the legislative body shall have the right of assembling such a num-

ber of the national guards, and in such place, as it shall deem expedient.

IX. At the moment when the war shall cease, the legislative body shall fix the space of time, within which the troops extraordinary shall be disbanded and the army reduced to the permanent establishment; the pay of the said troops shall be continued no longer than to that fixed time, after which, should the troops extraordinary remain still embodied, the minister shall be responsible, and be impeached as guilty of treason against the nation. To this end it shall be incumbent on the committee of constitution to consider forthwith of the mode of ministerial responsibility.

X. It belongs to the king to conclude and sign all treaties of peace, of alliance, and of commerce with foreign powers, and such other conventions as he shall deem consistent with the welfare of the state; but the said treaties and conventions shall become effective, only so far as they shall have been ratified by the legislative body.

MR. PITT'S SPEECH

IN DEFENCE OF CERTAIN GRANTS OF MONEY TO THE ALLIES WITHOUT THE AUTHORITY OF PARLIAMENT. DELIVERED IN THE HOUSE OF COMMONS, DECEMBER 14, 1796.

MR. PITT, as chancellor of the exchequer, in making his annual statement to the house, took the opportunity to acknowledge, that he had advanced to the allies during the preceding session of parliament and its subsequent recess, divers sums of money, to the amount of 1,200,000*l*.

This measure of the minister afforded too favourable an occasion of attack, not to be seized by an opposition ever the most vigilant and alert.

Mr. Fox, therefore, moved, "*that his majesty's ministers having authorized and directed, at different times, without the consent, and during the sitting of parliament, the issue of various sums of money, for the service of his imperial majesty, and also for the service of the army under the prince of Conde, have acted contrary to their duty, and to that trust reposed in them, and have therefore violated the constitutional privileges of this house.*"

The minister, in the following speech delivered in his defence, displays great powers of eloquence, and uncommon ingenuity in the application of precedents to his case.

The sense, however, of the house manifesting itself against the constitutionality of the measure, though disposed to sanction it on the grounds of expediency, one of the friends of ministry prudently proposed, which was ultimately carried by a large majority, as an amendment to Mr. Fox's motion, "*that advancing the several sums of money in the account then before the house, for the service of his imperial majesty, though not to be drawn into precedent but upon occasions of special necessity, was a justifiable exercise, under the circumstances of the case, of the discretion vested in his majesty's ministers by the vote of credit.*"

SPEECH, &c.

WHEN I consider, sir, the nature of the motion which is this day brought forward by the right honourable gentleman against his majesty's ministers, and the serious charge which it involves, I must regard myself as particularly implicated in that charge, as possessing a particular share of responsibility in the conduct of that measure which is censured as a violation of the constitution, and a breach of the privileges of this house. I have, however, in the discussion of this question every thing to expect from the candour and justice of the house. An imputation of a most serious kind has been advanced against his majesty's ministers; but it is necessary that all which may be offered on both sides should be fairly heard, before any decision can take place. It is requisite that gentlemen should be in full possession of every important fact that can be adduced, before they hasten to a conclusion which necessarily involves in it, matter of such weight and magnitude. The house should clearly know the general principles on which it is to decide; it should know the grounds on which the theory of this part of the constitution is erected; it should also know what the particular instances are in point of practice that militate in a certain degree against the general principles. I say, sir, when these

considerations are once known, it will then be incumbent on the house to decide. But I trust it will not be denied, that until these points are completely and satisfactorily ascertained, the house ought, with every view to propriety, to suspend its determination. It is no small object of satisfaction to me, that the full review of former precedents with respect to the present motion, forms a chief ground of it. In such an application of facts, I have considerable reason to be pleased, and I trust I shall clearly demonstrate before I sit down, that former precedents concur in justifying the measure which is at this moment so severely condemned.

I am, however, not a little surprised to hear the language made use of by an honourable magistrate,* who has declared that he has received instructions from his constituents to join in a vote of censure against his majesty's ministers, for having supplied the emperour with money without the authority of parliament. There is perhaps, not any question on which a member ought to allow the decided dictates of his own conscience and judgment to be superseded by the instructions of his constituents; but if there is any case in which a member ought to be particularly anxious to preserve his right of private judgment, it is in the present instance, with respect to a criminal charge: for I think it must be admitted, that it was impossible for the honourable gentleman's constituents to decide in a just and candid manner, on the propriety of giving a vote on a motion, with the particulars of which they must have been unacquainted, and more peculiarly as they must have been totally ignorant of the defence which his majesty's ministers meant to set up. I have, sir, to caution the house against those constitutional doctrines which have been maintained in former debates, and particularly on Thursday night last. But without entering into a minute refutation of them, or stating those which I conceive to be strictly just, I cannot help observing,

* Alderman Combe.

that much is saved for my purpose by the concessions which the right honourable gentleman himself * has made. I certainly do not wish to goad the right honourable gentleman into the former opinions he has at different times maintained: I am better content to take his present statements: I am better content with what I have heard from him to day, and with those general principles which have fallen from him in support of his motion. For as, on a former occasion, when the present subject was first started, the interval of one night made him see the measure more inflammatory than it really is; it now appears that a pause of a few days have diminished his ideas of the inflammatory tendency which, in his own opinion, it possessed. The right honourable gentleman has taken great pains to lay down the great constitutional principles with regard to pecuniary grants, and the use of these grants. I did understand on a former night, that the honourable gentleman told us one thing, to which he said there was no exception, namely, that no expense could be incurred without the consent of parliament. I did not altogether subscribe to that doctrine, and I will state, as nearly as possible, the very words of the argument I then used in answer. I argued, that the practice of extraordinaries had been adopted at different periods of the history of the country, at periods the most approved in the history of the country, at least at periods which the honourable gentleman must naturally think the most approved—when he was himself in the administration. Extraordinaries, to a large amount, were used during the sitting of parliament, and parliament afterwards justified the act by a vote. The honourable gentleman did then admit, that he never could be supposed to have said that extraordinaries could not be used without the consent of parliament, previously obtained; but when ministers have now adopted the same measure, the propriety of which the honourable gentleman said, he could not be supposed to deny, yet such is

* Mr. Fox.

his alarm, that he cannot feel himself justified in pausing a moment on the necessity of the actual condemnation of ministers.

However, sir, it is enough for my purpose to admit, that, according to the fundamental principles of the constitution, all grants must proceed from the commons; that they are afterwards subject to their control, is a principle undeniable: but although the commons are possessed of the power of controlling the application of the supplies raised by them, yet it is a circumstance proved to demonstration, by practice and general observation, that it would be impossible to carry on any wars, that it would be impossible for government to proceed with due regard for the publick safety, or with advantage for the publick service, if extraordinaries were not raised by parliament. In point of practice, it is evident they have been raised. Those great writers, who have written on the subject subsequent to the revolution, prove that extraordinaries have always been used from that period. I desire to refer to the practice of the whole of the succession of administrations, from the days of king William down to the present time, when the principles of the constitution are become infinitely more definite, and when, owing to ambition on the part of France, publick expenses and the transactions of finance have attained a greater magnitude; and I ask, whether from that period down to the present, the practice of extraordinaries has not been recognised, and admitted? I do not mean of extraordinaries only, but of extraordinary services during the sitting of parliament. I do not state this, as if there was only one or two solitary precedents, but as the uniform practice of all the wars in which this country has been engaged; and that, during such wars, the extraordinaries have been precisely of the description I have stated. Sir, our constitution is one which rests on great and leading principles, but still no one would wish that the constitution should experience any injury by pushing those principles to a rigid and extreme excess. If we are to look into the record books of the constitution, we

shall find certain principles laid down, which seem to contradict many acts of parliament, which are held as strictly legal. If we examine the law of parliament, we shall find, that it is derived principally from the general tenour of the whole of the principles of the constitution, illustrated by the particular urgency and necessity of circumstances. If this is the true way which men ought to study the constitution, by applying the principles of it to the exigency of circumstances, let me repeat what I stated on a former night, with respect to the impossibility of the measure being wrong, which was done in conformity to the best and most approved principles, as adapted to peculiar events; and let me also ask, how a measure can deserve to be loaded with obloquy and reproach, which in truth is no more than has been the practice of every administration, at those periods when we have been most proud of the constitution? I might remark, that the honourable gentleman, in the course of his speech has admitted such to have been the practice, because he has himself acted upon it; yet I must admit that the honourable gentleman, when he stated that such was the practice, observed, that because extraordinaries were consonant to practice, it was no reason they should be extended so far, if it could possibly be avoided. The honourable gentleman, If I understand him right, by that very mode of argument, of the extension of the extraordinaries being attended with so much the more mischief, does, in fact, admit the exception to the principle which he charges me with having violated, and, in short, destroys in effect the very principle he before admitted. He told us that every extraordinary service involved the breach of the pledge to satisfy former estimates, by removing the means of paying them to some other service. If his doctrines mean to infer that extraordinaries ought not to be unnecessarily extended, I cannot but perfectly coincide with him: but if his argument has for its object that of rendering all extraordinaries invidious, I hope, in such case I may be allowed to guard the house against the effects of attending too much to to-

picks opposed to the very same principles which he has before admitted. That extraordinaries are liable to the future observation and control of parliament, is true; but parliament has at all times felt, that it is necessary, for the publick safety, that ministers should have the power of using extraordinaries, without appealing to parliament, provided that power, and the means by which those extraordinaries are incurred, are subject to future discussion.

But it is not the question of extraordinaries only that arises. Parliament, finding the impossibility of reducing every thing to estimated expenses, has introduced the practice of giving votes of credit, with the power, generally, to apply them as exigencies might require. As far as it has been possible to provide against extraordinaries, which always hitherto has been impracticable, every endeavour has been exerted; but it is a circumstance in which parliament have certainly acted with great wisdom, that it has not thought proper at any time to interfere with respect to the amount of the sums which ministers might think necessary for supplying the extraordinaries, but merely to make ministers responsible for the application of the sums, and the necessity of the extraordinaries, to the payment of which they are directed. Before I say any more, I will only observe, that it is not likely I should be one to dispute the propriety of the measure of providing for the extraordinaries by the extent of the vote of credit, if such a thing could be adopted. I have often heard it made a matter of reproach to me, that I endeavoured to estimate every expense and provide for it beforehand. The votes of credit were always smaller in former wars than in the present. In the present war, I have added to the vote of credit other provisions for the purpose of providing for the extraordinaries beforehand; I may, therefore, be considered as having done all in my power towards endeavouring to take the previous authority of parliament. What then do I say, that there is no difference between a vote of credit and extraordinaries? As to the vote of credit, I conceive it

to be a privilege granted to his majesty's ministers to employ a given sum to any such purpose as the exigency of affairs shall require. There is no circumstance, however unforeseen, there is no purpose, be it what it may, no possible event, to which ministers may not think it requisite that a vote of credit is applicable; no expenses upon sudden emergencies, which do not come within the spirit of a vote of credit, subject however to that principle which I shall state.* I observe an honourable gentleman taking notes of what I have just mentioned, and by his manner he seems to express disapprobation. I only hope he will not interrupt me, till he has done me the honour to attend to the whole of what I say, when I have no doubt but I shall be able to convince him I am right. Have I said that, because a vote of credit is applicable to every publick service, there is no question of responsibility? Have I said there is no principle of respect, of attention, of deference to parliament? I trust I have neither denied, nor at any one moment of my life have failed to show by my conduct, that such responsibility does exist. I know that for every exercise of that discretion, regularly given by the act, founded upon the vote of credit, ministers are subject to the same responsibility as for the exercise of every other discretion, which permanently belongs to them as ministers of the crown, and which they are bound to use for the safety, the welfare, and the dignity of the country; a discretion the more important, as it relates to the disposition of the publick money: and I trust parliament will not lose sight, that it is their duty to weigh those unforeseen difficulties on which alone government can use the powers with which it is intrusted.

But, sir, I do not mean to stop here. I do not mean to say that government ought not to be questioned as to the propriety of the measures it may think proper to recur to. I have admitted its liability to

* Here Mr. Grey took notes of what fell from the Chancellor of the Exchequer.

be censured. I will admit, that if, at that time of using a vote of credit, ministers foresee any expen-
 diture which appears likely to be of consequence,
 either with respect to its amount, or the importance
 or peculiarity of the subject, if it admits of a precise
 estimate, and if the subject is of such a nature that it
 can be divulged without injury or inconvenience to
 the publick—should readily admit that that minister
 would fail in his duty to parliament, that he would
 not act according to the sound principles of what I
 believe to be the constitution of the country, if he
 were not to state the nature of the emergency, and
 endeavour to estimate the expense; but if from the
 nature of the exigency, it should be impolittick to
 divulge it, in that case, I conceive the minister jus-
 tified, who conceals it from parliament till a future
 season. By these principles, as to the general ques-
 tion, I am satisfied that my merits or demerits should
 be tried. If I have, in the opinion of the house, de-
 parted from the principles of the constitution, then I
 have committed an error in judgment. If through
 an error in judgment I have departed from the prin-
 ciples of the constitution, I admit that I ought to re-
 ceive the censure of the house, notwithstanding that
 error proceeded from my having felt it my irresis-
 tible duty, in common with the rest of his majesty's
 ministers, to act upon principles which I conceived
 the best calculated to ensure the prosperity and ad-
 vantage of the country. Let me not be supposed to
 admit, what the honourable gentleman seems to as-
 sume as an instance of candour, namely, that he
 reserved the question, whether any degree of import-
 ance, which might attach to the subject, could possi-
 bly be considered an argument for concealing it, or
 that its importance could make any difference with
 regard to the estimate of its expense. Of the princi-
 ple itself, it is not material to say more; but with
 respect to what the honourable gentleman has stated,
 I will make this observation. He has said that ex-
 traordinaries are admitted on account of indispensable
 necessity, and that those extraordinaries are such a

mischief, that he almost doubts whether they should be suffered at all. I will admit that expense, be it what it will, is indubitably objectionable, and that if the expense arises to a considerable sum, the objection is still stronger; but the greater the expense, the higher is the advance on the responsibility of ministers, and the greater is the inducement for this house to vote to discharge those expenses. The only case has occurred which was in contemplation. If it should appear to the house, that in consequence of an unforeseen change of circumstances, the necessity of expenditure was increased; if it should appear that the only opportunity had arrived, in which there was no alternative but that of relinquishing the cause in which the country was engaged, or of advancing the responsibility of ministers; if, I say, this should appear, is it a mark of candour in the honourable gentleman to desire that the urgency only should be put out of the question?

Why then, sir, as to the utility of the advance to the emperor, whether it could have been made in a more proper form; whether, by a previous application to parliament, it would not have been attended with a greater degree of inconvenience; whether the advance was not made at a time the most critical that could possibly have occurred—these are questions which I shall shortly proceed to discuss. But, assuming for the present, that there was a difficulty about the mode of doing it, what mode, under similar circumstances would have been more eligible? In this way it has been tried, and has succeeded: by previously applying to parliament, it is doubtful whether it would have succeeded or not. I entreat gentlemen to recollect the situation of the emperor on the continent; the situation of this country, with respect to the prosecution of the war, or of its termination by a safe and honourable peace: I request them to look back to July or August last; a period when we saw with regret and apprehension the triumphant arms of the French Republic at the gates of Munich, and the territorial possessions of the belligerent powers

in danger of being wrested from them. When they look back to this period, let them at the same time contemplate the slow, firm, measured and magnanimous retreat of the gallant Austrian army, and the consequences which followed from a retreat only calculated to ensure the success of their future operations. Will they then ask themselves, dry as the question may be, when so animated a subject is presented to the mind, how far the assurance of the aid which this country was disposed to grant, may have invigorated the spirit of a country making its utmost efforts to resist an invading foe, how far it may have given confidence to their resources, and enabled them to prosecute that line of operations which has been attended with such distinguished success? With these considerations in his view, is there any man who can regard as a matter of consequence, whether the expense of 900,000*l.* or 1,200,000*l.* has been incurred to the country? Is there any man who can question the propriety of the sum allotted for the object, and would be willing, for the sake of so paltry a saving, to give up our share in promoting a service, which has terminated so honourably for the character of our allies, and so beneficially for the general interests of Europe? Who would not rejoice that he was admitted into partnership so illustrious, and accompanied with such brilliant success?

————— *Me credite Lesbou,
Me Tenedon, Chrysenque, & Cyllan Apollinis urbes,
Et Scyron cepisse. Meâ concussa putate
Procubuisse solo Lyrnessia mœnia dextrâ.*

We have besides to consider, that whatever in this instance has been given, has only been lent to a power whom we have no reason to distrust. Even if a sum had been given to a much larger amount, it would surely have been amply repaid by the success which has attended the exertions of our allies, and the important advantages which have been gained to the common cause. In the course of discussion on this subject, frequent mention has been made of the opinion of the publick. The publick are not so dead or so insensible as either to be ignorant of the advantages

which have been obtained, or ungrateful towards those to whose gallant exertions they are indebted on the present occasion. There is not a man, even the meanest individual in the country, who will not feel himself more than repaid for the small quota which he will be required to bring forward in aid of the public service, by the important benefits which have been secured to the general interests of Europe. There is not, I will venture to say, an Englishman who does not feel the most ardent sympathy with the magnanimity, the resources, the spirit, and perseverance which have been displayed by Austria in her recent exertions, and who does not rejoice that the contributions of England have been brought forward in aid of operations which have been equally marked by their gallantry and success. I will not think so ill of the good sense of my countrymen as to suppose that they can regret any trifling expense, which has been the means of obtaining such signal advantages. The question alone is, whether there is any doubt of the exigence of the measure, whether there is any doubt of its necessity, and whether the service would have been performed by a previous statement to parliament.

Here, sir, let me state to this house, or rather repeat what I have shortly stated on a former night. The house will recollect, that from the principles on which I conceive a government should act, it never could have been in my contemplation, or that of his majesty's ministers, under the vote of credit, to propose advancing the whole of the sum which turned out to be necessary for the emperour. That it was not my intention, is proved by this circumstance, that at the very period of proposing the vote of credit, a reserve was expressly made for a loan to be specifically brought forward, and submitted to parliament, to a much larger amount than the vote of credit. What inference do I wish to draw from this? First of all, that it is a pretty clear and evident proof, that it in reality appeared, by the Austrians being so much in want, that his majesty's ministers had an impression of the necessity of assisting the emperour. Could they

have any motive to hold out a loan, if there was no such thing in agitation? What view could any government have in stating the necessity of an Austrian loan, if they did not see the occasion for one? When we asked for the vote of credit, it was plain we were not asking for a vote of credit for services unforeseen, but that we intended to apply it as it has been applied. Gentlemen will recollect, that on the first loan of eighteen millions, it was stated as uncertain the precise time it would be called for; that the precise time depended on the result of an intercourse between his majesty and the emperour, without which it was impossible to settle the extent of it. But it is true, I felt that, in consequence of the extraordinary extent of the drain of money, some time would be necessary before the influx of trade would be such as to render a measure of that kind practicable in its execution, or safe in its impression; for of all subjects, that which relates to credit, or the stagnation of money, the delicacy of which every man knows, is that in which it is necessary to be particularly circumspect. Now, how does this stand? I was sanguine that a much shorter interval would have diminished the scarcity. Afterwards, at a much later period, I found that it would be impossible to bring forward the loan. Under this impression, I did think it advisable to take the step I have taken, a short time previous to the end of last parliament. How far that can be fairly imputed to me as a crime, is a question I shall have occasion to discuss. However, this is the first principle of my defence, that when the campaign was advancing, so that the emperour could not wait for any proof of the reality of his hopes of an increase of pecuniary supply, in conformity to what had been done before, and according to principles recognised by parliament, I thought it expedient, for the success of his arms, to send the means of repelling the enemy.

The principal question is, whether this measure has deprived you of any thing you possessed? whether any disadvantage has been the consequence of it, so as to make our situation more embarrassed now

than it would have been some months ago, by a loan taking place? I believe the situation of mercantile men, and the pecuniary state of the country, is more favourable now than they were at the periods when the several remittances to the emperor were issued. This I state not merely on the suggestions of any particular member of this house, not merely in consequence of any discovered public opinion; but I state it on evident grounds of reason. Nor can I for a moment suppose that the members of this house, that the public will long suspend the delegation of their assent to a measure founded equally in the justice and expediency of the motives which gave it birth. But however this may be, I have on this occasion the satisfaction of knowing that I am not stating my own sentiments only, but also those of the persons who were the contractors for the last loan. The contractors for that loan themselves felt then, and have since communicated to me, the inconveniences that had resulted to commerce in general from the immense, but necessary drains in the money market. They had felt that any specifick proposition to guaranty a fresh loan to the emperor would have sensibly affected the money market: would have depreciated the funds, and depressed the public credit. Had I upon that occasion adopted the mode of a public loan; had I come to parliament, when parliament first sat to deliberate on public measures; had I, while the necessities of the empire and the dearest interests of Europe depended in some measure, the one for relief, the other for preservation, on the remittance of certain portions of that sum of 1,200,000l;—had I in that eventful crisis done any thing that might, in its ultimate consequences, increase the difficulties of that ally, endanger and risk the liberties of Europe, what, let me ask, would have been the language of the honourable gentleman, who has this night censured my conduct, and made it the subject of a specifick motion? I repeat it: The persons best acquainted with the money market were, at the periods I have mentioned, deeply impressed with a sense

of its growing embarrassment, and seriously felt the inconveniences necessarily concomitant to a state of warfare. They felt those inconveniences, but they more than felt the justice of the contest which had operated as the cause of them. In their opinion, the pecuniary situation of the country was such as would have rendered the publick avowal of any loan to the emperor extremely impolitick, and by an ill-timed discussion of its propriety, have produced those evils I have in part detailed. To them I submitted whether a publick loan would be prudent in such circumstances, but they were unanimous in their preference of the adopted mode. A proof this, that I could have no intention to violate the constitution. That I had not hastily, and immaturity adopted the alternative; that I made those preliminary arrangements; that my inquiries on the subject were as general and earnest as I have this night avowed, is well known, not only to the individuals with whom I consulted, but also to my colleagues in the ministry. I appeal, without fear of being contradicted, I appeal to those in my confidence, whether such were or such were not my sentiments, whether such was or was not my conduct on that occasion? At this time the situation of the empire was also so peculiar, that his majesty's servants could not but have a strong and influencing sense of the impropriety of affording publicly the aid that situation so much required. The arms of the French republick were victorious in almost every quarter, the empire threatened with destruction, and Europe with ruin. This was, I own, the reverse of our once favourable hopes. From the exertions of that ally our expectations had been different; but could any temporary reverse of circumstances justify a measure that must have entailed on that ally a permanent mischief? Surely we, who had considered ourselves entitled to share in the good fortune of the arms of Austria, would not justly have separated our interests in her adversity. Surely that ally, of whose good faith and candour, of whose steady attachment to the principles of the alliance we had so many and such splendid

proofs; that ally, who had almost singly resisted the destructive progress of an impetuous and enthusiastick enemy; yes, the house of Austria eminently merited our confidence and our esteem. But these were not enough. The empire was in actual danger; her treasury exhausted; and many of her princes forced to abandon her defence. It was in this conjuncture that his majesty's servants, faithful at least to their sense of the danger, afforded to Germany that assistance which I am proud to say had been in a great measure the means of saving not only that particular empire, but a vast portion of Europe. Actuated by these considerations, thus hurried by existing necessities, to adopt a particular measure, I flatter myself few who hear me will in the end fail to discover, that the act itself, even supposing it to be unconstitutional, could not be the result of a deliberate intention to violate acts of parliament.

The right honourable gentleman has supposed that the measure was now brought forward under cover of the glory of the Austrian successes: but I have to remind that honourable gentleman, and the house, that the resolution of his majesty's ministers, to assist the emperour, was taken not under the flattering phantom of delusive glory, not because the house of Austria was resuming, under the auspices of one of its illustrious members, its former spirit, and had regained its ardour; not because the French had been forced to abandon some places, and retreat from others in the German dominions; but their resolution was taken when ministers felt that they had an opportunity of giving to the emperour, Europe, and the country, the best pledge of their sincerity, of their attention to their interests, of their individual integrity, and collective force. The resolution was not taken without serious contemplation of the risk. It was not undertaken without maturely considering every relation, in which it could possibly connect itself with the constitution. It was not undertaken in defiance of law, nor made a solitary exception to all former usage. It was not undertaken to cripple our finances, nor had it either

prospectively, or retrospectively, any one thing in common with a deliberate insult to the house. But it was undertaken in a way, and upon an emergency, which warranted the measure. Even the measure was warranted by the former opinions of my adversaries; but especially by the then and present opinion of monied men. I shall perhaps be asked, what is the difference between a loan in the manner that loan was transacted, and a loan granted in the old and popular way? What the difference between a direct and avowed disbursement of the publick money, and an indirect and concealed disbursement? The former I shall, perhaps, be told, must have decreased the pecuniary resources of the country equally with the latter; and have lessened, though in a secret manner, the general means of commercial security. But to this I cannot concede, because the reverse has been the fact. The fact has been, that by remitting money to the emperour in that season of difficulty, of doubt and danger, his majesty's ministers have rendered less doubtful the prospects of a safe and honourable peace. Had ministers on that occasion, after being convinced themselves of the necessity and justice of such assistance, and during the recess of parliament, delayed the adoption of the conduct they have pursued, instead of affording to the emperour, the enemy, and Europe, a proof of superiour wisdom, and superiour resources, it would be a proof of the want of both, by giving the money publickly. By discussing the subject in parliament at the earliest period, if such a discussion could be entered into, not only publick credit would have been injured, but you would have told the enemy that your difficulties obliged you to stint the acknowledged wants of your allies. To those who thought worse of our resources than I did, to the publick mind in general, such a measure in such a crisis would, I know, have been a cause not of rejoicing, but of sorrow; not a source of pleasure, but of pain. Every man who wished well to his country, every man sincerely attached to the principles of the constitution, instead of approving of that

assistance being afforded originally as a loan, would have said : No, do not commit yourself to your ally, so as to make your necessities a test of his. If, instead of endeavouring to poise and remove the difficulty as I have done, this house had so passed a public loan, such must have been the consequence. I am certain that had parliament been acquainted with the danger of our ally, and had even determined to give the necessary assistance, the publicity of the measure would have defeated the object. So that whether we had or had not been reduced to the alternative of refusing assistance altogether, the event must have produced collateral mischiefs. I may therefore, I think, ask : Ought you to yield to the pressure of temporary difficulty, and abandon your ally at a moment when such a step may be decisive of his fate ? Ought you, on the other hand, completely to pledge yourselves to grant a pecuniary assistance which, in the first instance, may be attended with considerable inconvenience, and the influence of which, on the future course of events, you are unable to ascertain ? Pledges of aid, and of instant aid, his majesty's servants had certainly seen good reason to give to the emperor. These pledges had been given long before the meeting of parliament, and might justly be considered as very eminently conducive to every measure and every success which has been since adopted and experienced. It is, I know, one among the grounds on which the right honourable gentleman has brought his accusation, that a part of the money was sent previously to the meeting of parliament, and another ground, that money has been sent since its meeting. I own, the advance to the emperor consists of sums sent since the meeting of the present parliament ; but I do contend, that the pledges of these sums were the means by which the house of Austria endured adversity, and retrieved its prosperity. Had the emperor in July and August last, had no assurance of your assistance, I will not say we should have been at this moment a ruined people, but I will say, that the pecuniary security of England, and the territorial

security of Austria, had been diminished, if not utterly destroyed.

On a former night, an honourable friend of mine used as an argument, the effect which he thought a publick discussion of the measure would have to depreciate the credit of the country; and I own I have not yet heard any thing that could induce me to think differently on that subject. The effect of a knowledge of the pecuniary distresses of the emperour, joined to the difficulty which a prompt supply would have produced, could not fail to bear with peculiarly embarrassing weight on the course of exchange. Whereas the transmission of the sum of 1,200,000*l.* in different sums, and at different periods, tended greatly to relieve the emperour, and preserve the credit of this country from that depression, which the same sum granted at once, and in the form of a publick loan, would have occasioned. I need not therefore enumerate the particular dates of those bills. Our assurance to Austria was not confined to the meeting of parliament, not subjected to the delays of several months of recess, but it was given with reference to every situation of difficulty or danger in which the arms of the emperour might be placed by their resistance to the arms of France. When the Austrian troops were retreating from their severe and glorious combat with the French republicans, they surely merited every assistance this country could afford them; but when, in the career of a brilliant series of the most splendid victories, those gallant men were urged by their emulation of the intrepidity of their invincible officers, to acts of unparalleled prowess, his majesty's servants found themselves called upon, most particularly called upon, to aid and promote their views, to soften their calamities, and to afford them means of securing their important conquests. On the conviction of the propriety of these sentiments, and of such conduct, it was, that the king's ministers had acted. Of the number of those who had been guided by these sentiments, I, sir, certainly was one, not the least active to provide, nor, I trust, the least vigilant to manage prudently

that pecuniary stimulus which, during the recess, and at other periods, was given to the arms of the empire. Our conduct, therefore, sir, does not respect the months of October, of November, nor December, in particular, but it had a clear and unerring relation to every crisis and circumstance, to every moment of danger. In truth, the acts themselves were acts performed distinctly in compliance with solemn engagements; they were acts in execution of pledges which had been previously given. Acting during the recess from the conviction that these pledges were given by the letter and the spirit of the existing treaties, acting after the parliament was met under the sanction of these treaties, with no intention then, and surely none now, of setting up their own judgments as the standard of, or superiour to, the judgment of the house of commons, ministers, I think, may be permitted to avail themselves of the exceptions of all similar treaties in favour of similar conduct. As to the transaction itself, no separation could fairly be made of the necessity which gave existence to the measure, and the motives which influenced its adoption. Even supposing the judgment of parliament could have been taken, the state of Germany was such, as could not have left gentlemen one moment to their doubts whether or no it was proper to assist the emperor. What ministers have done in pursuance of their pledge, was, however, done in a great measure before parliament could have been assembled to consider its expediency. Of the nature and effect of the services performed by the emperor, gentlemen may very readily judge. They have them recorded in the annals of very recent periods, annals the most brilliant, perhaps, in the history of the world. Thus, whether we judge of the services of Austria in whole, or only in part, I think gentlemen must concede to me that the services of the last three months have been at least such as merit our particular approbation. On this part of the subject I have, therefore, at present, scarcely any thing more to remark. I have, in the best manner I am able, stated to the house the circumstance of that situation

which rendered it impossible for Austria to continue her warlike operations without assistance from this country. I have likewise endeavoured to render my own conceptions of the act of sending money to an ally without the previous consent of parliament. In addition to these, I have submitted to the house those principles, in the practical exertion of which I pursued that line of conduct now so much the subject of the animadversions of the right honourable gentleman.

With this species of defence, I might in some measure rest satisfied : but I should still be wanting in duty to myself, did I not, before I sat down this night, desire the house to keep in memory the principles I have thus stated, as being those on which I acted ; if I did not desire the house to compare these principles with my conduct. As to the question of extraordinaries, I have heard the idea suggested, and something like an argument attempted to be deduced from it, that if its spirit be adhered to, no part of a vote of credit can be employed to pay foreign troops. I have heard too, that of such an application of the publick money so voted, our annals scarcely afford any, and if any, not apposite precedents. Sir, I think I can instance a number of precedents of this kind ; I can instance to this house, and for the information of the right honourable gentleman, that votes of credit were appropriated by our ancestors to the payment of foreign troops. In times before the revolution, but of those times gentlemen seem unwilling to say much, in the reign immediately before the revolution, this very thing had been done by the crown ; but, sir, in periods subsequent to the revolution, in periods not the least favoured in our annals, although certainly not altogether free from the stains of calumny, but especially of party violence, in the reign of king William, during the year 1701, accompanied by circumstances of a singularly important and curious nature, the parliament voted an extra sum for the payment of foreign forces. This sum was voted not regularly as a vote of credit, but it succeeded the granting of a vote of credit, and was a measure which, although it occa-

sioned some trifling opposition, was carried unanimously. Such was the conduct of our ancestors at the revolution. In the reign of queen Ann, a reign reprehended undoubtedly by some, a reign which had unhappily encouraged, if not occasioned and fomented those differences which rendered the tories so implacable against the whigs; in that reign, thus checkered by the persecutions, sanguinary persecutions, first of the whigs, but latterly, and I will confess with not less cruelty, begun and continued by the tories: in this reign, and in the years 1704 and 1705, both subsidies and grants had been employed in paying foreign forces. This too was done without the authority of parliament. In 1706, a transaction more directly characteristick of this, for which the ministers of the present day are censured, was publicly avowed, and as publicly discussed; yet it seems the right honourable gentleman had overlooked it. This at least seems to be the case; or, if known, he certainly ought to have abandoned his assertion. There is to be met with in the annals of the parliament of that day, an account of three different sums, each considered, by the opposition of that day, as violations of the constitution—a remittance to the duke of Savoy, to the emperour, and to Spain. A sum too had been paid in the same manner to the landgrave of Hesse, for a corps of his troops then in the pay of England. All these sums were not voted regularly after the specifick propositions, submitted for that purpose to the house, but were remitted to those sovereigns without the previous consent of parliament. Not even estimates of the services, for which the sums had been paid, were laid before the house till six weeks after its meeting. The sum sent to the emperour was peculiarly distinguished—it had been transmitted, not at the close, not during the recess of that session in which it was first announced to parliament, but before the end of the preceding session. These proceedings did certainly attract notice. The house of commons and the publick had been addressed on the unconstitutionality of the mea-

sure; then as now there had been employed every effort which ingenuity could suggest; every vehicle of publick communication rendered a vehicle of asperity and censure on the conduct of ministers. It became the subject of a solemn discussion—a discussion apparently not less vehement, than it was laboured and profuse. But how, sir, did the ministers of that day retire from the combat? Did they retire overwhelmed with the virulence and abuse, the censure of the discerning and temperate members of that parliament? Or were those their actions distinguished by the approbation of the commons of Great Britain? Sir, the minister of that day had the satisfaction to see the attack of his adversaries repelled, and their expressions of censure changed to approbation. That minister, sir, heard his conduct applauded, and the journals of this house were made to bear record that the sense of its members was, that the sums advanced to the emperour on that occasion had been productive not only of the preservation of the empire, but had also supported and maintained the interests of Europe. In the year 1718, in the beginning of the reign of George the First, an instance of the application of the publick money occurred, which, though not so analogous as the last, I think it right to mention. A message had been received from his majesty, soliciting the aid of the commons to make such an augmentation of the actual forces of the country as might be deemed necessary to place it in a respectable state of defence; and that because there had been an appearance of an invasion.—At this time his majesty takes Dutch troops into his pay, and the money voted to raise and maintain native troops is disbursed for the use of a foreign corps. It is true this body of Dutch troops were landed in England, and their services confined to it; but not even these affected much the application of the fact as a precedent. However, sir, in the year 1734, a period nearer our own times, a general vote of credit was granted. That vote of credit was applied on such occasions, and for such purposes as might at any time, during its existence, arise out of

the exigencies of the time. On the 18th of February of the subsequent year, a vote of credit was also granted, and a treaty concluded with Denmark. And, sir, if I have not totally misconceived the passage of our parliamentary history where these facts are stated, this last, as well as the vote of credit immediately preceding it, was applied to purposes in their nature not unlike those to which necessity impelled the ministers of the present day to apply the vote of 1796. I might also refer gentlemen to another instance of an advance to foreign troops. An advance to the duke of Arenberg, commander of the Austrian forces, in the year 1742, was noticed in debate, and censured in the administration of Mr. Pelham—a name this as dear to the friends of constitutional liberty as perhaps any that could be mentioned: but the inquiry was avoided by moving the previous question. It happened however, that, not long after, the same question was made the subject of a specifick discussion. It appeared that the advance had been made under the authority of an assurance expressed by lord Carteret, and not in consequence of any previous consent of parliament; but it appeared also that the progress of the Austrian troops was considerably accelerated by the influence of that aid, and their subsequent successes owing chiefly to it. The vote of censure, therefore, which had been founded on the act of lord Carteret, was amended, and the advance declared necessary to the salvation of the empire. But sir, let us compare the crisis of 1796 with that of 1787, when the expenses incurred by our endeavours to protect Holland were recognised under the head of secret services. This too, was a unanimous recognition of the act which, had it been the offspring of 1796, the right honourable gentleman, influenced by his new opinions, would, I have no doubt, marked with his disapprobation; but so stood the fact then.

The right honourable gentleman avoids no opportunity to express his disrespect for the memory of the last parliament. But surely he ought to recollect, that, although he has often told us that the last parlia-

ment completely undermined the constitution, there yet remain principles for which the right honourable gentleman thinks it his duty to contend, under the sanction of which, he is yet permitted to accuse his majesty's ministers as criminals for doing that which necessity provoked; and which precedents warrant. Undoubtedly, Sir, I think that whether the people of England will hereafter approve of the conduct of opposition as constitutional conduct, they will admit that it is a vigilant opposition. On the present occasion, however, much of that vigilance seems to me to have been exerted in vain. They have not, with all their industry, fallen even in the way of one precedent, that might have induced some little relaxation of their inordinate zeal. They have not discovered that the act they have marked with every species of obloquy, of which language is capable, is an act that has been again and again approved of. It is even within the admitted principle of successive parliaments. But the members who sat in the last parliament have not forgot that, when a loan of four millions and a half was proposed to be granted to the emperour, the intention of granting that loan was known as early as February, 1795. A message had been received from his majesty, stating that a negotiation was pending with the emperour to maintain 200,000 men. The loan to be granted when the negotiation succeeded, and when it failed, to be mentioned. Soon after the answer to this message was communicated to the throne, a motion was made for an account of 250,000*l.* advanced to the emperour in May, 1795; and again a similar motion was made for an account of 300,000*l.* also, advanced to the emperour in the month of May following. With respect to these sums, it was agreed by the house before the loan was debated, that they might be afterwards made good out of the loan. This, sir, I have stated to show that the members who sat in the last parliament cannot be altogether ignorant of the principles of the constitution. After the negotiation was concluded, the loan was debated; the house was divided, but no objection was made to these advances.

On the subject of the prince of Condé's army being supplied with money by this country, I can only say, that whatever sums that army has as yet received have been paid, on account of services rendered, as forming a part of the Austrian forces. The circumstance of a part of the 1,200,000*l.* stated as being sent to the emperour, being afterwards received in this country in part payment of the interest due on the second Austrian loan, is also easily accounted for, these payments, on account of being in their nature the same, as if the emperour, instead of being so accommodating to himself as to pay the money, by his agent, on the spot, had ordered it to be sent to Vienna, and transmitted by the same post to this court.

I may now, sir, I think, be permitted to ask on what principle of justice a criminal charge can be brought against me for merely having followed the uniform tenour of precedent, and the established line of practice? By what interpretation of a candid and liberal mind can I be judged guilty of an attempt, wantonly to violate the constitution? I appeal to the right honourable gentleman himself, who is not the last to contend for the delicacy which ought to be used in imputing criminal motives to any individual, and to urge in the strongest terms the attention which ought to be shown to the candid and impartial administration of justice. In what country do we live? and by what principles are we to be tried? By the maxims of natural justice and constitutional law, or by what new code of some revolutionary tribunal? Not longer than a year and a half since, the same principle was adopted, and suffered to pass without any animadversion; and now, at a crisis of tenfold importance, and where the measure has not outrun the exercise of a sound discretion, it is made the foundation of a criminal charge. We are accused with a direct and wanton attack upon the constitution. It is not supposed that we have been actuated by any but the blackest and most malignant motives. We are not allowed the credit of having felt any zeal for the interest of our country, nor

of those advantages which the measure has produced to the common cause.

I have now weighed the whole merits of the transaction before the house, and with them I am well content to leave the decision. While we claim a fair construction on the principles and intentions which have guided our conduct, if it shall appear that it has in the smallest instance deviated from any constitutional principle, we must submit to the consequence, whatever be the censure or the punishment. It is our duty, according to the best of our judgment, to consult for the interest of the country; it is your sacred and peculiar trust to preserve inviolate the principles of the constitution. I throw myself upon your justice, prepared in every case to submit to your decision; but with considerable confidence, that I shall experience your approbation. If I should be disappointed, I will not say that the disappointment will not be heavy, and the mortification severe; at any rate, however, it will to me be matter of consolation, that I have not, from any apprehension of personal consequences, neglected to pursue that line of conduct which I conceive to be essential to the interests of the country and of Europe. But while I bow with the most perfect submission to the determination of the house, I cannot but remark on the extraordinary language which has been used on this question. Ministers have been broadly accused with a wanton and a malignant desire to violate the constitution: it has been stated that no other motive could possibly have actuated their conduct. If a charge of such malignant intention had been brought against men, who have affirmed the present war to be neither just nor necessary, and who on that ground cannot be supposed friendly to its success; who have extolled, nay, even exulted in the prodigies of French valour; who have gloried in the successes of the foes of civil liberty, the hostile disturbers of the peace of Europe, men who blasphemously denied the existence of the Deity, and who had rejected and trampled on every law, moral and divine; who have exclaimed against

the injustice of bringing to trial persons who had associated to overawe the legislature ; those who gravely and vehemently asserted, that it was a question of prudence, rather than a question of morality, whether an act of the legislature should be resisted ; those who were anxious to expose and aggravate every defect of the constitution ; to reprobate every measure adopted for its preservation, and to obstruct every proceeding of the executive government to ensure the success of the contest in which we are engaged in common with our allies ; I say, if such a charge of deliberate and deep rooted malignity were brought against persons of this description, I should conceive that even then the rules of candid and charitable interpretation would induce us to hesitate in admitting its reality ; much more when it is brought against individuals, whose conduct, I trust, has exhibited the reverse of the picture I have now drawn. I appeal to the justice of the house, I rely on their candour ; but, to gentlemen who can suppose ministers capable of those motives which have been imputed to them on this occasion, it must be evident that I can desire to make no such appeal.

MR. CURRAN'S SPEECH,

ON THE TRIAL OF PETER FINERTY, FOR A LIBEL. TRIED IN
THE CITY OF DUBLIN, BEFORE MR. JUSTICE DOWNS, ON THE
22d DECEMBER, 1797.

TO explain some allusions in the present speech, it is necessary briefly to relate, that William Orr had, in the preceding year been convicted of treason; but there appearing to the jury circumstances to mitigate his offence, he was recommended by them to mercy. Their recommendation, however, producing no effect, sentence of death was pronounced on him. Previous to the day appointed for execution, various representations were made to the Lord Lieutenant in his favour, and one especially by the magistrate who had originally committed him, accompanied by affidavits which went to impeach the credibility of Wheatley, the principal witness on the trial.

In consequence of these representations, it is supposed, the prisoner was twice respited, and it was confidently expected that he would be ultimately pardoned. But government were inexorable.

The execution of this unfortunate man seems to have excited the deepest sense of horror and indignation among the people of Ireland.

At a court held at the city of Dublin, Peter Finerty, editor of the paper called the Press, was tried and found guilty, on the charge of being the printer and publisher of the "*following false, scandalous, and libellous letter, addressed to earl Cambden.*"

MY LORD,

"I address your excellency on a subject as awful and interesting, as any that hath engaged the feelings of this suffering country. The oppression of an individual leads to the oppression of every member in the state, as his death, however speciously palliated by forms, may lead to the death of the constitution. Your lordship already anticipates me; and your conscience has told you, that I allude to the circumstance of Mr. Orr, whose case every man has now made his own, by discovering the principle on which Mr. Pitt sent you to execute his orders in Ireland.

The death of Mr. Orr, the nation has pronounced one of the most sanguinary and savage acts that has disgraced the laws.—In perjury, did you not hear, my lord, the verdict was given? perjury accompanied with terror, as terror has marked every step of your government. Vengeance and desolation were to fall on those who would not plunge themselves in blood. These were not strong enough; against the express law of the land, not only was drink introduced to the jury, but drunkenness itself, beastly and criminal drunkenness, was employed to procure the murder of a better man, than any that now surrounds you. But well may juries think themselves justified in their drunken verdicts, if debauched and drunken judges, swilling spirits on the seat of justice itself, shall set the country so excellent an example.

Repentance, which is a slow virtue, hastened, however, to declare the innocence of the victim. The mischief which perjury had done, truth now stepped forward to repair; neither was she too late, had humanity formed any part of your counsels. Stung with remorse, on the return of reason, part of his jury solemnly and soberly made oath, that their verdict had been given under the unhappy influence of intimidation and drink; and in the most serious affidavit that ever was made, by acknowledging their crime, endeavoured to atone to God, and to their country, for the sin into which they had been seduced.

The informer too, a man it must be owned not much famed for veracity, but stung with the like remorse, deposed that all he had formerly sworn was malicious and untrue, and that from compunction alone he was induced to make a full disclosure of his great and enormous guilt. In this confession the wicked man had no temptation to perjury. He was not to be paid for that. He had not in view, like another Judas, the "thirty pieces of silver." If he was to receive a reward, he knew he must not look for it in this world.

Those testimonies were followed by the solemn declaration of the dying man himself; and the approach of death is not a moment when men are given to deceive both themselves and the world. Good and religious men are not apt, by perjury on their deathbeds, to close the gates of heaven against

themselves, like those who have no hope. But if these solemn declarations do not deserve regard, then there is no truth in justice; and though the innocence of the accused had even remained doubtful, it was your duty, my lord, and you had no exemption from that duty, to have interposed your arm, and saved him from the death that perjury, drunkenness, and reward had prepared him.

Let not the nation be told that you are a passive instrument in the hands of others—if passive you be, then is your office a shadow indeed—if an active instrument, as you ought to be, you did not perform the duty which the law required of you; you did not exercise the prerogative of mercy—that mercy which the constitution had intrusted to you for the safety of the subject, by guarding him from the oppression of wicked men. Innocent it appears he was; his blood has been shed; and the precedent indeed is awful.

Had Frazier and Ross been found guilty of the murder committed on a harmless and industrious peasant—lay your hand to your heart, my lord, and answer without advisers, would you not have pardoned those ruffians? After the proof you have given of your mercy, I must suppose your clemency unbounded. Have no *Orange-men*, convicted on the purest evidence, been at any time pardoned? Is not *their* oath of blood connived at? was not that oath manufactured at the command of power! and does not power itself discipline those brigands? But suppose the evidence of Wheatly had been true, what was the offence of Mr. Orr? not that he had taken an oath of blood and extermination—for then he had not suffered—but that he had taken an oath of charity and of union, of humanity and of peace. He has suffered. Shall we then be told, that your government will conciliate public opinion, or that the people will not continue to look for a better?

Was the unhappy man respited but to torture him, to insult both justice and the nation, to carry the persecution into the bosom of his wife and children? Is this the prerogative of mercy? What would your father have said unto you, had he lived to witness this falling off. "Son," he would have said, "I am a father; I have a daughter; I have known misfortune; the world has pitied me; and I am not ungrateful."

Let us explore the causes of this sanguinary destruction of the people. Is it that you are determined to revenge the regret expressed by them at the recall of your predecessor; and well knowing they will not shed tears at the departure of his successor, that you are resolved to make them weep during your stay? Yes, my lord, I repeat during your stay; for it may not be necessary, that a royal yacht, manned and decorated for the purpose, should waft you from the shores of an angered and insulted country.

Another cause. Is it to be wondered that a successor of lord Fitzwilliam should sign the death warrant of Mr. Orr?—Mr. Pitt had learned, that a merciful lord lieutenant was un-

sued to a government of violence. It was no compliment to the native clemency of a Cambden, that he sent you into Ireland; and what has been our portion under the change, but massacre and rape, military murders, desolation and terror?

Had you spared Mr. Orr, you thought, perhaps, the numerous families of those whom your administration had devoted, might accuse you of partiality; and thus to prove your consistency, you are content to be suspected of wanting the only quality this country wishes you to exercise.

But, my lord, it will not do. Though your guards and your soldiers, and your thousands, and your tens of thousands, should conduct innocence to death, it will not do. A voice has cried in the wilderness; and let the deserted streets of Carrickfergus proclaim to all the world, that good men will not be intimidated, and that they are yet more numerous than your soldiers.

We are not Domitian's people; we are not lopped at a blow; but it looks as if some fate had doomed us to be destroyed one by one, as the Persian tyrant ordered the hairs to be plucked from the tail of his beast. Beasts we have been; the vile carriers of the vilest burthens, that the vilest masters could lay upon us. But the yoke is shaken; persecution has provoked to love; and united Ireland against foreign despotism.

Feasting in your castle, in the midst of your myrmidons and bishops, you have little concerned yourself about the expelled and miserable cottager, whose dwelling, at the moment of your mirth, was in flames; his wife and his daughter then under the violation of some commissioned ravager; his son agonizing on the bayonet, and his helpless infants crying in vain for mercy. These are lamentations that stain not the hour of carousal. Under intoxicated counsels, the constitution has reeled to its centre. Justice herself is not only blind drunk, but deaf, like Festus, "to the words of soberness and truth."

My lord, the people of Ireland did hope, that mercy would not have been denied to a most worthy and innocent man, when they understood that one of the worst advisers, and most imperious members of your cabinet, had abandoned the kingdom. Had he been of your late counsels, the odium might have been divided; at present you have the best claim to it. Let, however, the awful execution of Mr. Orr be a lesson to all unthinking juries; and let them cease to flatter themselves that the soberest recommendation of theirs, and of the presiding judge, can stop the course of carnage, which sanguinary, and I do not fear to say, unconstitutional laws, have ordered to be loosed. Let them remember, that, like Macbeth, the servants of the crown have waded so far in blood, that they find it easier to go on than to go back.

MARCUS.

SPEECH, &c.

NEVER did I feel myself so sunk under the importance of any cause. To speak to a question of this kind, at any time, would require the greatest talent and the most matured deliberation; but to be obliged without either of these advantages, to speak to a question that hath so deeply shaken the feelings of this already irritated and agitated nation, is a task that fills me with embarrassment and dismay. Neither my learned colleague nor myself received any instructions or license until after the jury were actually sworn, and we, both of us, came here under an idea that we should not take any part in the trial. This circumstance I mention, not as an idle apology for an effort, that cannot be the subject of either praise or censure, but as a call upon you, gentlemen of the jury, to supply the defects of my efforts, by a double exertion of your attention.

Perhaps I ought to regret that I cannot begin with any compliment, that may recommend me or my client personally to your favour. A more artful advocate would probably begin his address to you by compliments on your patriotism, and by felicitating his client upon the happy selection of his jury, and upon that unsuspected impartiality in which, if he was innocent, he must be safe. You must be conscious gentlemen, that such idle verbiage as that, could not convey either my sentiments or my client's upon that subject. You know, and we know, upon what occasion you are come, and by whom you have been chosen; you are come to try an accusation professedly brought forward by the state, chosen by a sheriff who is appointed by our accuser.*

Be it so—I will now stop to inquire whose property the city may be considered to be; but the learned gentleman seems to forget, that the election by

* Here Mr. Attorney General said, the sheriff was elected by the city, and that that observation was therefore unfounded.

that city, to whomsoever it may belong, is absolutely void without the approbation of that very lord lieutenant who is the prosecutor in this case. I do therefore repeat, gentlemen, that not a man of you has been called to that box by the voice of my client; that he has had no power to object to a single man among you, though the crown has, and, that you yourselves must feel under what influence you are chosen, or for what qualifications you are particularly selected. At a moment when this wretched land is shaken to its centre by the dreadful conflicts of the different branches of the community; between those who call themselves the partisans of liberty, and those that call themselves the partisans of power; between the advocates of infliction, and the advocates of suffering; upon such a question as the present, and at such a season, can any man be at a loss to guess from what class of character and opinion, a friend to either party would resort for that jury which was to decide between them both. I trust, gentlemen, you know me too well to suppose that I could be capable of treating you with any personal disrespect. I am speaking to you in the honest confidence of your fellow citizen. When I allude to those unworthy imputations of supposed bias, or passion, or partiality, that may have marked you out for your present situation; I do so in order to warn you of the ground on which you stand, of the point of awful responsibility in which you are placed, to your conscience, and to your country; and to remind you, that if you have been put into that box from any unworthy reliance on your complaisance or your servility, you have it in your power, before you leave it, to refute and to punish so vile an expectation by the integrity of your verdict; to remind you, that you have it in your power to show to as many Irishmen as yet linger in their country, that all law and justice have not taken their flight with our prosperity and our peace; that the sanctity of an oath and the honesty of a juror are not yet dead amongst us; and that if our courts of justice are superseded by so ma-

ny strange and terrible tribunals,* it is not because they are deficient either in wisdom or virtue.

Gentlemen, it is necessary that you should have a clear idea first of the law, by which this question is to be decided : secondly, of the nature and object of the prosecution. As to the first, it is my duty to inform you, that the law respecting libels has been much changed of late.—Heretofore, in consequence of some decisions of the judges in Westminster-hall, the jury was conceived to have no province but that of finding the truth of the innuendos and the fact of publication; but the libellous nature of that publication, as well as the guilt or innocence of the publication, were considered as exclusively belonging to the court. In a system like that of law, which reasons logically, no one erroneous principle can be introduced, without producing every other that can be deducible from it. If in the premises of any argument you admit one erroneous proposition, nothing but bad reasoning can save the conclusion from falsehood. So it has been with this encroachment of the court upon the province of the jury with respect to libels. The moment the court assumed as a principle, that they, the court, were to decide upon every thing but the publication; that is, they were to decide upon the question of libel or no libel, and upon the guilt or innocence of the intention, which must form the essence of every crime, the guilt or innocence must of necessity have ceased to be material. You see, gentlemen, clearly, that the question of intention is a mere question of fact. Now the moment the court determined that the jury was not to try that question, it followed of necessity that it was not tried at all; for the court cannot try a question of fact. When the court said that it was not triable, there was no way of fortifying that extraordinary proposition, except by asserting that it was not material. The same erroneous reasoning carried them another step, still more mischievous and unjust: if the intention had

* Alluding to the number of courts martial.

been material, it must have been decided upon as a mere fact under all its circumstances. Of these circumstances the meanest understanding can see, that the leading one must be the truth or falsehood of the publication; but having decided the intention to be immaterial, it followed that the truth must be equally immaterial—and under the law so distorted, any man in England who published the most undeniable truth, and with the purest intention, might be punished for a crime in the most ignominious manner, without imposing on the prosecutor the necessity of proving his guilt, or getting any opportunity of showing his innocence.

I am not in the habit of speaking of legal institutions with disrespect: but I am warranted in condemning that usurpation upon the rights of juries, by the authority of that statute, by which your jurisdiction is restored. For that restitution of justice, the British subject is indebted to the splendid exertions of Mr. Fox and Mr. Erskine,—those distinguished supporters of the constitution and of the law; and I am happy to say to you, that though we can claim no share in the glory they have so justly acquired, we have the full benefit of their success: for you are now sitting under a similar act passed in this country, which makes it your duty and your right to decide upon the entire question, upon its broadest grounds, and under all its circumstances, and of course to determine by your verdict, whether this publication be a false and scandalous libel: false in fact, and published with the seditious purpose alleged, of bringing the government into scandal, and instigating the people to insurrection.

Having stated to you, gentlemen, the great and exclusive extent of your jurisdiction, I shall beg leave to suggest to you a distinction that will strike you at first sight; and that is the distinction between publick animadversions upon the character of private individuals, and those which are written upon measures of government, and the persons who conduct them. The former may be called *personal*, and the

latter *political* publications. No two things can be more different in their nature, nor in the point of view in which they are to be looked on by a jury. The criminality of a mere personal libel consists in this, that it tends to a breach of the peace; it tends to all the vindictive paroxysms of exasperated vanity, or to the deeper and more deadly vengeance of irritated pride.—The truth is, few men see at once that they cannot be hurt so much as they think by the mere battery of a newspaper. They do not reflect that every character has a natural station, from which it cannot be effectually degraded, and beyond which it cannot be raised by the bawlings of a news-hawker. If it is wantonly aspersed, it is but for a season, and that a short one, when it emerges, like the moon, from behind a passing cloud to its original brightness. It is right, however, that the law, and that *you* should hold the strictest hand over this kind of publick animadversion, that forces humility and innocence from their retreat into the glare of publick view—that wounds and terrifies; that destroys the cordiality and peace of domestick life; that without eradicating a single vice, or a single folly, plants a thousand thorns in the human heart.

In cases of that kind, I perfectly agree with the law as stated from the bench. In such cases I hesitate not to think, that the truth of a charge ought not to justify its publication. If a private man is charged with a crime, he ought to be prosecuted in a court of justice, where he may be punished if it is true, and the accuser if it be false; but far differently do I deem of the freedom of political publication. The salutary restraint of the former species, which I talked of, is found in the general law of all societies whatever; but the more enlarged freedom of the press, for which I contend in political publication, I conceive to be founded in the peculiar nature of the British constitution, and to follow directly from the contract on which the British government hath been placed by the revolution. By the British constitution, the power of the state is a trust, committed by the people, upon certain conditions; by the violation of which it may be

abdicated by those who hold, and resumed by those who conferred it. The real security therefore of the British sceptre is, the sentiment and opinion of the PEOPLE, and it is consequently *their* duty to observe the conduct of the government; and it is the privilege of every man, to give them full and just information upon that important subject. Hence the liberty of the press is inseparably twined with the liberty of the people. The press is the great publick monitor: its duty is that of the historian and the witness, that "*Nil falsi audeat, nil veri non audeat dicere,*" that its horizon shall extend to the farthest verge and limit of truth; that beyond that limit it shall not dare to pass; that it shall speak truth to the king in the hearing of the people, and to the people in the hearing of the king; that it shall not perplex either the one or the other with false alarm, lest it lose its character for veracity, and become an unheeded warner of real danger; lest it should vainly warn them of that sin, of which the inevitable consequence is death. This, gentlemen, is the great privilege upon which you are to decide; and I have detained you the longer, because of the late change of the law, and because of some observations that have been made, which I shall find it necessary to compare with the principles I have now laid down.

And now, gentlemen, let us come to the immediate subject of the trial, as it is brought before you by the charge in the indictment, to which it ought to have been confined; and also, as it is presented to you by the statement of the learned counsel who has taken a much wider range than the mere limits of the accusation, and has endeavoured to force upon your consideration, extraneous and irrelevant facts, for reasons which it is my duty to explain. The indictment states simply, that Mr. Finerty has published a false and scandalous libel, upon the lord lieutenant of Ireland, tending to bring his government into disrepute, and to alienate the affections of the people; and one would have expected, that without stating any other matter, the counsel for the crown would

have gone directly to the proof of this allegation; but he has not done so; he has gone to a most extraordinary length indeed, of preliminary observation, and an allusion to facts, and sometimes an assertion of facts, at which I own I was astonished, until I saw the drift of these allusions and assertions. Whether you have been fairly dealt with by him, or are now honestly dealt with by me, you must be judges. He has been pleased to say, that this prosecution is brought against this letter signed Marcus, merely as a part of what he calls a system of attack upon government, by the paper called the *PRESS*. As to this, I will only ask you, whether you are fairly dealt with? Whether it is fair treatment to men upon their oaths, to insinuate to them, that the general character of a newspaper (and that general character founded merely upon the assertion of the prosecutor) is to have any influence upon their minds, when they are to judge of a particular publication? I will only ask you, what men you must be supposed to be, when it is thought that even in a court of justice, and with the eyes of the nation upon you, you can be the dupes of that trite and exploded expedient, so scandalous of late, in this country, of raising a vulgar and mercenary cry against whatever man or whatever principle it is thought necessary to put down; and I shall therefore merely leave it to your own pride to suggest, upon what foundation it could be hoped, that a senseless clamour of that kind could be echoed back by the yell of a jury upon their oaths.—I trust, you see that this has nothing to do with the question.

Gentlemen of the jury, other matters have been mentioned, which I must repeat for the same purpose; that of showing you, that they have nothing to do with the question. The learned counsel has been pleased to say, that he comes forward in this prosecution as the real advocate for the liberty of the press, and to protect a mild and merciful government from its licentiousness; and he has been pleased to add, that the constitution can never be lost while its freedom remains, and that its licentiousness alone can destroy

that freedom. As to that, gentlemen, he might as well have said, that there is only one mortal disease of which a man can die; I can die the death inflicted by tyranny; and when he comes forward to extinguish this paper in the ruin of the printer by a state prosecution, in order to prevent its dying of licentiousness, you must judge how candidly he is treating you, both in the fact and in the reasoning. Is it in Ireland, gentlemen, that we are told licentiousness is the only disease that can be mortal to the press? Has he heard of nothing else that has been fatal to the freedom of publication? I know not whether the printer of the Northern Star may have heard of such things in his captivity, but I know that his wife and children are well apprized that a press may be destroyed in the open day, not by its own licentiousness, but by the licentiousness of a military force.—As to the sincerity of the declaration that the state has prosecuted in order to assert the freedom of the press, it starts a train of thought, of melancholy retrospect and direful prospect, to which I did not think the learned counsel would have wished to commit your minds. It leads you naturally to reflect at what times, from what motives, and with what consequences the government has displayed its patriotism, by these sorts of prosecutions. As to the motives, does history give you a single instance in which the state has been provoked to these conflicts, except by the fear of truth, and by the love of vengeance?—Have you ever seen the rulers of any country bring forward a prosecution from motives of filial piety, for libels upon their departed ancestors?—Do you read that Elizabeth directed any of those state prosecutions against the libels, which the divines of her time had written against her catholick sister; or against the other libels which the same gentlemen had written against her protestant father? No, gentlemen, we read of no such thing; but we know she did bring forward a prosecution from motives of personal resentment, and we know that a jury was found time-

serving and mean enough to give a verdict, which she was ashamed to carry into effect !

I said the learned counsel drew you back to the times that have been marked by these miserable conflicts. I see you turn your thoughts to the reign of the second James. I see you turn your eyes to those pages of governmental abandonment, of popular degradation, of expiring liberty, of merciless and sanguinary persecution ; to that miserable period, in which the fallen and abject state of man might have been almost an argument in the mouth of the atheist and blasphemer against the existence of an all just and an all wise first cause ; if the glorious era of the revolution that followed it, had not refuted the impious inference, by showing that if man descends, it is not in his own proper motion ; that it is with labour and with pain, and that he can continue to sink only until, by the force and pressure of the descent, the spring of his immortal faculties acquires that recuperative energy and effort that hurries him as many miles aloft. He sinks but to rise again. It is at that period that the state seeks for shelter in the destruction of the press ; it is in a period like that, that the tyrant prepares for the attack upon the people, by destroying the liberty of the press ; by taking away that shield of wisdom and of virtue, behind which the people are invulnerable, in whose pure and polished convex, ere the lifted blow has fallen, he beholds his own image, and is turned into stone. It is at those periods that the honest man dares not speak, because truth is too dreadful to be told ; it is then humanity has no ears, because humanity has no tongue. It is then the proud man scorns to speak, but like a physician baffled by the wayward excesses of a dying patient, retires indignantly from the bed of an unhappy wretch, whose ear is too fastidious to bear the sound of wholesome advice, whose palate is too debauched to bear the salutary bitter of the medicine that might redeem him ; and therefore leaves him to the felonious piety of the slaves that talk to him of life, and strip him before he is cold.

I do not care, gentlemen, to exhaust too much of your attention, by following this subject through the last century with much minuteness; but the facts are too recent in your mind not to show you, that the liberty of the press, and the liberty of the people, sink and rise together; and that the liberty of speaking, and the liberty of acting, have shared exactly the same fate. You must have observed in England that their fate has been the same in the successive vicissitudes of their late depression; and sorry I am to add, that this country has exhibited a melancholy proof of their inseparable destiny, through the various and further stages of deterioration down to the period of their final extinction; when the constitution has given place to the sword, and the only printer in Ireland, who dares to speak for the people, is now in the dock.

Gentlemen, the learned counsel has made the real subject of this prosecution so small a part of his statement, and has led you into so wide a range, certainly as necessary to the object, as inapplicable to the subject of this prosecution; that I trust you will think me excusable in somewhat following his example. Glad am I to find that I have the authority of the same example, for coming at last to the subject of this trial. I agree with the learned counsel, that the charge made against the lord lieutenant of Ireland, is that of having grossly and inhumanly abused the royal prerogative of mercy, of which the king is only the trustee for the benefit of the people. The facts are not controverted. It has been asserted that their truth or falsehood is indifferent, and they are shortly these, as they appear in this publication.

William Orr was indicted for having administered the oath of a *United Irishman*. Every man now knows what that oath is; that it is simply an engagement; first to promote a brotherhood of affection among men of all religious distinctions. Secondly, to labour for the attainment of a parliamentary reform. And thirdly, an obligation of secrecy, which was added to it when the convention law made it criminal

and punishable to meet by any publick delegation for that purpose. After remaining upwards of a year in jail, Mr Orr was brought to his trial; was prosecuted by the state; was sworn against by a common informer by the name of Wheatley, who, himself, had taken the obligation, and was convicted under the insurrection act, which makes the administering such an obligation felony of death. The jury recommended Mr. Orr to mercy. The judge, with a humanity becoming his character, transmitted the recommendation to the noble prosecutor in this case. Three of the jurors made solemn affidavit in court, that liquor had been conveyed into their box; that they were brutally threatened by some of their fellow jurors with capital prosecution if they did not find the prisoner guilty; and that under the impression of those threats, and worn down by watching and intoxication, they had given a verdict of guilty against him, though they believed him in their conscience to be innocent. That further inquiries were made, which ended in a discovery of the infamous life and character of the informer; that a respite was therefore sent once, and twice, and thrice, to give time, as Mr. Attorney General has stated, for his excellency to consider whether mercy *could* be extended to him or not; and that, with a knowledge of all these circumstances, his excellency did finally determine that mercy *should not* be extended to him, and that he was accordingly executed upon that verdict. Of this publication, which the indictment charges to be false and seditious, Mr. Attorney General is pleased to say, that the design of it is to bring the courts of justice into contempt. As to this point of fact, gentlemen, I beg to set you right.

To the administration of justice, so far as it relates to the judges, this publication has not even an allusion in any part mentioned in this indictment. It relates to a department of justice, that cannot begin until the duty of the judge is closed. Sorry should I be, that with respect to this unfortunate man, any censure should be flung on those judges who presided at his

trial, with the mildness and temper that became them, upon so awful an occasion as the trial of life and death. Sure am I, that if they had been charged with inhumanity, or injustice, and if they had condescended at all to prosecute the reviler, they would not have come forward in the face of the publick to say, as has been said this day, that it was immaterial whether the charge was true or not. Sure I am, their first object would have been to show that it was false; and ready should I have been an eye witness of the fact, to have discharged the debt of ancient friendship, of private respect, and of publick duty, and upon my oath, to have repelled the falsehood of such an imputation. Upon this subject, gentlemen, the presence of those venerable judges restrains what I might otherwise have said, nor should I have named them at all, if I had not been forced to do so, and merely to undeceive you, if you have been made to believe their characters to have any community of cause whatever with the lord lieutenant of Ireland. To *him* alone it is confined, and against *him* the charge is made, as strongly, I suppose, as the writer could find words to express it, "that the viceroy of Ireland has cruelly abused the prerogative of royal mercy, in suffering a man under such circumstances to perish like a common malefactor." For this Mr. Attorney General calls for your conviction as a false and scandalous libel, and after stating himself every fact that I have repeated to you, either from his statement or from the evidence, he tells you that you ought to find it false, though he almost in words admits that it is not false, and has resisted the admission of the evidence by which we offered to prove every word of it to be true.

And here, gentlemen, give me leave to remind you of the parties before you. The traverser is a printer, who follows that profession for bread, and who at a time of great publick misery and terrour, when the people are restrained by law from debating under any delegated form; when the few constituents that we have, are prevented by force from meeting in their own persons, to deliberate or to petition; when every

other newspaper in Ireland is put down by force, or purchased by the administration (though here, gentlemen, perhaps I ought to beg your pardon for stating without authority. I recollect when we attempted to examine as to the number of newspapers in the pay of the castle, that the evidence was objected to) at a season like this, Mr. Finerty has had the courage, perhaps the folly, to print the publication in question, from no motive under heaven of malice or vengeance, but in the mere duty which he owes to his family and to the publick. His prosecutor is the king's minister in Ireland. In that character does the learned gentlemen mean to say that his conduct is not a fair subject of publick observation? Where does he find his authority for that, in the law or practice of the sister country? Have the virtues, or the exalted station, or the general love of his people preserved the sacred person, even of the royal master of the prosecutor, from the asperity and the intemperance of publick censure, unfounded as it ever must be, with any personal respect to his majesty, justice, or truth? Have the gigantick abilities of Mr. Pitt, have the more gigantick talents of his great antagonist, Mr. Fox, protected either of them from the insolent familiarity, and, for aught I know, the injustice with which writers have treated them? What latitude of invective has the king's minister escaped upon the subject of the present war? Is there an epithet of contumely, or of reproach, that hatred or that fancy could suggest, that are not publickly lavished upon him? Do you not find the words, "advocate of despotism—robber of the publick treasure—murderer of the king's subjects—debaucher of the publick morality—degrader of the constitution—tarnisher of the British empire," by frequency of use lose all meaning whatsoever, and dwindling into terms, not of any peculiar reproach, but of ordinary appellation?—And why, gentlemen, is this permitted in that country?—I'll tell you why. Because in that country they are yet wise enough to see, that the measures of the state are the proper subjects for the free-

dom of the press; that the principles relating to *personal* slander, do not apply to rulers or to ministers; that to publish an attack upon a *public* minister, without any regard to truth, but merely because of its tendency to a breach of the peace, would be ridiculous in the extreme. What breach of the peace, gentlemen, I pray you is it in such a case? Is it the tendency of such publications, to provoke Mr. Pitt or Mr. Dundas, to break the head of the writer, if they should happen to meet him? No, gentlemen. In that country this freedom is exercised, because the people feel it to be their right, and it is wisely suffered to pass by the state, from a consciousness that it would be vain to oppose it; a consciousness confirmed by the event of every incautious experiment. It is suffered to pass from a conviction, that in a court of justice at least, the bulwarks of the constitution will not be surrendered to the state, and that the intended victim, whether clothed in the humble guise of honest industry, or decked in the honours of genius, and virtue, and philosophy; whether a Hardy or a Tooke, will find certain protection in the honesty and spirit of an English jury.

But, gentlemen, I suppose Mr. Attorney will scarcely wish to carry his doctrine altogether so far. Indeed, I remember, he declared himself a most zealous advocate for the liberty of the press. I may, therefore, even according to him, presume to make some observations on the conduct of the existing government. I should wish to know how far he supposes it to extend. Is it to the composition of lampoons and madrigals, to be sung down the grates by ragged balladmongers, to kitchen maids and footmen?—I will not suppose that the means to confine it to those ebullitions of Billingsgate, to those cataracts of ribaldry and scurrility, that are daily spouting upon the miseries of our wretched fellowsufferers, and the unavailing efforts of those who have vainly laboured in their cause. I will not suppose that he confines it to the poetick license of a birth-day ode; the laureat would not use such language! in which case I do

entirely agree with him, that the truth or the falsehood is as perfectly immaterial to the law, as it is to the laureat, as perfectly unrestrained by the law of the land, as it is by any law of decency, or shame, or modesty, or decorum. But as to the privilege of censure or blame, I am sorry that the learned gentleman has not favoured you with *his* notion of the liberty of the press. Suppose an Irish viceroy acts "a very little absurdly."—May the press venture to be "respectfully comical upon that absurdity?" The learned counsel does not, at least in terms, give a negative to that. But let me treat you honestly, and go further, to a more material point. Suppose an Irish viceroy does an act that brings scandal upon his master; that fills the mind of a reasonable man with the fear of approaching despotism; that leaves no hope to the people of preserving themselves and their children from chains, but in common confederacy for common safety. What is that honest man in that case to do?—I am sorry the right honourable advocate for the liberty of the press has not told you his opinion; at least in any express words. I will therefore venture to give you my humbler thoughts upon the subject.

I think an honest man ought to tell the people frankly and boldly of their peril, and, I must say, I can imagine no villany greater than that of his holding a traitorous silence at such a crisis, except the villany and baseness of prosecuting him, or of finding him guilty for such an honest discharge of his publick duty. And I found myself on the known principle of the revolution of England, namely, that the crown itself may be abdicated by certain abuses of the trust reposed, and that there are possible excesses of arbitrary power, which it is not only the right, but the bounden duty of every honest man to resist at the risk of his fortune and his life. Now, gentlemen, if this reasoning be admitted, and it cannot be denied, if there be any possible event in which the people are obliged to look only to themselves, and are justified in doing so, can you be so absurd as to say that it is lawful to the people to act upon it when it unfortunate-

ly does arrive'; but that it is criminal in any man to tell them that the miserable event has actually arrived, or is imminently approaching? Far am I, gentlemen, from insinuating that (extreme as it is) our misery has been matured into any deplorable crisis of this kind, from which I pray that the Almighty God may for ever preserve us: but I am putting my principle upon the strongest ground, and most favourable to my opponents; namely, that it never can be criminal to say any thing of the government but what is false; and I put this in the extreme, in order to demonstrate to you *a fortiori*, that the privilege of speaking truth to the people, which holds in the last extremity, must also obtain in every stage of inferiour importance; and that however a court may have decided before the late act, that the truth was immaterial in case of libel, that since that act no honest jury can be governed by such a principle.

Be pleased now, gentlemen, to consider the grounds upon which this publication is called a libel, and criminal. Mr. Attorney tells you it tends to excite sedition and insurrection. Let me again remind you that the truth of this charge is not denied by the noble prosecutor. What is it then, that tends to excite sedition and insurrection? "The act that is charged upon the prosecutor, and is not attempted to be denied." And, gracious God! gentlemen of the jury, is the publick statement of the king's representative this? "I have done a deed that must fill the mind of every feeling or thinking man with horror and indignation, that must alienate every man that knows it, from the king's government, and endanger the separation of this distracted empire; the traverser has had the guilt of publishing this fact which I myself acknowledge, and I pray you to find him guilty." Is this the case which the lord lieutenant of Ireland brings forward? Is this the principle for which he ventures, at a dreadful crisis like the present, to contend in a court of justice? Is this the picture which he wishes to hold out of himself, to the justice and humanity of his own countrymen? Is this the history which

he wishes to be read by the poor Irishman of the south and of the north, by the sister nation, and the common enemy.

With the profoundest respect, permit me humbly to defend his excellency, even against his own opinion. The guilt of this publication he is pleased to think, consists in this, that it tends to insurrection. Upon what can such a fear be supported? After the multitudes which have perished in this unhappy nation within the last three years, and which has been born with a patience unparalleled in the story of nations, can any man suppose that the fate of a single individual could lead to resistance or insurrection? But suppose that it might, what ought to be the conduct of an honest man? Should it not be to apprize the government and the country of the approaching danger? Should it not be, to say to the viceroy "you will drive the people to madness, if you persevere in such bloody counsels; you will alienate the Irish nation; you will distract the common force; and you will invite the common enemy." Should not an honest man say to the people, "the measure of your affliction is great, but you need not resort for remedy to any desperate expedients. If the king's minister is defective in humanity or wisdom, his royal master, and your beloved sovereign is abounding in both." At such a moment, can you be so senseless as not to feel that any one of you ought to hold such language, or is it possible you could be so infatuated, as to punish the man who was honest enough to hold it? Or is it possible that you could bring yourselves to say to your country, that at such a season, the press ought to sleep upon its post, or to act like the perfidious watchman on his round that sees the villain wrenching the door, or the flames bursting from the windows, while the inhabitant is wrapt in sleep and cries out, "past five o'clock, the morning is fair, and all well!"

On this part of the case, I shall only put one question to you. I do not affect to say it is similar in all its points; I do not affect to compare the humble

fortunes of Orr, with the sainted names of Russel or of Sydney ; still less am I willing to find any likeness between the present period and the year 1683.—But I will put a question to you completely parallel in principle. When that unhappy and misguided monarch had shed the sacred blood, which their noble hearts had matured into a fit cement of revolution, if any honest Englishman had been brought to trial for daring to proclaim to the world his abhorrence of such a deed, what would you have thought of the English jury that could have said, “we know in our hearts that what he said was true and honest ; but we will say upon our oaths, that it was false and criminal, and we will by that base subserviency, add another item to the catalogue of publick wrongs, and another argument for the necessity of an appeal to heaven for redress.

Gentlemen, I am perfectly aware that what I say may be easily misconstrued ; but if you listen to me with the same fairness that I address you, I cannot be misunderstood. When I show you the full extent of your political rights and remedies ; when I answer those slanderers of British liberty, who degrade the monarch into a despot, who degrade the steadfastness of law into the waywardness of will ; when I show you the inestimable stores of political wealth so dearly acquired by our ancestors, and so solemnly bequeathed ; and when I show you how much of that precious inheritance has yet survived all the prodigality of their posterity, I am far from saying that I stand in need of it all upon the present occasion. No, gentlemen, far indeed am I from such a sentiment. No man more deeply than myself, deploras the present melancholy state of our unhappy country. Neither does any man more fervently wish for the return of peace and tranquillity, through the natural channels of mercy and of justice. I have seen too much of force and of violence, to hope much good from the continuance of them on one side, or retaliation from another. I have seen too much of late, of political rebuilding, not to have observed that to demolish, is

not the shortest way to repair. It is with pain and anguish that I should search for the miserable right of breaking ancient ties, or going in quest of new relations, or untried adventures. No, gentlemen, the case of my client rests not upon these sad privileges of despair. I trust that as to the fact, namely, the intention of exciting insurrection; you must see it cannot be found in this publication; that it is the mere idle, unsupported imputation of malice, or panick, or falsehood. And that as to the law, so far has he been from transgressing the limits of the constitution, that whole regions lie between him and those limits which he has not trod; and which I pray to heaven, it may never be necessary for any of us to tread.

Gentlemen, Mr. Attorney General has been pleased to open another battery upon this publication, which I do trust I shall silence, unless I flatter myself too much in supposing that hitherto my resistance has not been utterly unsuccessful. He abuses it for the foul and insolent familiarity of its address. I do clearly understand his idea; he considers the freedom of the press to be the license of offering that paltry adulation which no man ought to stoop to utter or to hear; he supposes the freedom of the press ought to be like the freedom of a king's jester, who, instead of reproving the faults of which majesty ought to be ashamed, is base and cunning enough, under the mask of servile and adulatory censure, to stroke down and pamper those vices of which it is foolish enough to be vain.—He would not have the press presume to tell the viceroy, that the prerogative of mercy is a trust for the benefit of the subject, and not a gaudy feather stuck in the diadem to shake in the wind, and by the waving of the gaudy plumage to amuse the vanity of the wearer.—He would not have it say to him, that the discretion of the crown, as to *mercy*, is like the discretion of a court of justice as to *law*, and that in the one case, as well as the other, wherever the propriety of the exercise of it appears, it is equally a matter of right. He would have the press all fierceness to the people, and all sycophancy to power; he

would have it consider the mad and phrenetick depopulations of authority, like the awful and inscrutable dispensations of Providence, and say to the unfeeling and despotick spoiler in the blasphemed and insulted language of religious resignation, "the Lord hath given, and the Lord hath taken away, blessed be the name of the Lord!"

But let me condense the generality of the learned gentleman's invective into questions that you can conceive. Does he mean that the air of this publication is rustick and uncourtly? Does he mean that when Marcus presumed to ascend the steps of the castle, and to address the viceroy, he did not turn out his toes as he ought to have done? But, gentlemen, you are not a jury of dancing masters. Or does the learned gentleman mean, that the language is coarse and vulgar? If this be his complaint, my client has but a poor advocate. I do not pretend to be a mighty grammarian, or a formidable critick; but I would beg leave to suggest to you in serious humility, that a FREE PRESS can be supported only by the ardour of men who feel the prompting sting of real or supposed capacity; who write from the enthusiasm of virtue, or the ambition of praise, and over whom, if you exercise the rigour of grammatical censorship, you will inspire them with as mean an opinion of your integrity as your wisdom, and inevitably drive them from their post—and if you do, rely upon it, you will reduce the spirit of publication, and with it the press of this country, to what it for a long interval has been, the register of births, and fairs, and funerals, and the general abuse of the people and their friends.

But, gentlemen, in order to bring this charge of insolence and vulgarity to the test, let me ask you whether you know of any language which could have adequately described the idea of mercy denied where it ought to have been granted, or of any phrase vigorous enough to convey the indignation which an honest man would have felt upon such a subject? Let me beg of you for a moment to suppose, that

any one of you had been the writer of this very severe expostulation with the viceroy, and that you had been the witness of the whole progress of this never to be forgotten catastrophe. Let me suppose that you had known the charge upon which Mr. Orr was apprehended, the charge of abjuring that bigotry which had torn and disgraced his country; of pledging himself to restore the people of his country to their place in the constitution; and of binding himself never to be the betrayer of his fellow-labourers in that enterprise; that you had seen him upon that charge removed from his industry, and confined in a jail; that through the slow and lingering progress of twelve tedious months you had seen him confined in a dungeon, shut out from the common use of air and of his own limbs; that day after day you had marked the unhappy captive, cheered by no sound but the cries of his family, or the clanking of his chains; that you had seen him at last brought to his trial; that you had seen the vile and perjured informer deposing against his life; that you had seen the drunken and worn out, and terrified jury give in a verdict of death; that you had seen the same jury, when their returning sobriety had brought back their consciences, prostrate themselves before the humanity of the bench, and pray that the mercy of the crown might save their characters from the reproach of an involuntary crime, their consciences from the torture of eternal self-condemnation, and their souls from the indelible stain of innocent blood.

Let me suppose that you had seen the respite given, and that contrite and honest recommendation transmitted to that seat, where mercy was presumed to dwell; that new, and before unheard of crimes, are discovered against the informer; that the royal mercy seems to relent, and that a new respite is sent to the prisoner; that time is taken, as the learned counsel for the crown has expressed it, to see whether mercy *could* be extended or not! that after that period of lingering deliberation passed, a third respite is transmitted; that the unhappy captive himself feels the

cheering hope of being restored to a family that he had adored, to a character that he had never stained, and to a country that he had ever loved; that you had seen his wife and children upon their knees, giving those tears to gratitude, which their locked and frozen hearts could not give to anguish and despair, and imploring the blessings of eternal Providence upon his head, who had graciously spared the father, and restored him to his children; that you had seen the olive branch sent into his little ark, but no sign that the waters had subsided.—“Alas! nor wife, nor children more shall he behold, nor friends, nor sacred home!”—No seraph mercy unbars his dungeon, and leads him forth to light and life, but the minister of death hurries him to the scene of suffering and of shame; where, unmoved by the hostile array of artillery and armed men, collected together, to secure, or to insult, or to disturb him, he dies with a solemn declaration of his innocence, and utters his last breath in a prayer for the liberty of his country!—Let me now ask you, if any of you had addressed the publick ear upon so foul and monstrous a subject, in what language would you have conveyed the feelings of horror and indignation? Would you have stooped to the meanness of qualified complaint—would you have been mean enough—but I entreat your forgiveness—I do not think meanly of you; had I thought so meanly of you, I could not suffer my mind to commune with you as it has done; had I thought you that base and vile instrument, attuned by hope and by fear, into discord and falsehood, from whose vulgar string no groan of suffering could vibrate, no voice of integrity or honour could speak; let me honestly tell you, I should have scorned to fling my hand across it; I should have left it to a fitter minstrel. If I do not therefore grossly err in my opinion of you, I could use no language upon such a subject as this, that must not lag behind the rapidity of your feelings, and that would not disgrace those feelings, if it attempted to describe them.

Gentlemen, I am not unconscious that the learned counsel for the crown seemed to address you with a confidence of a very different kind; he seemed to expect a kind and respectful sympathy from you with the feelings of the castle, and the griefs of chided authority. Perhaps, gentlemen, he may know you better than I do. If he does, he has spoken to you as he ought; he has been right in telling you, that if the reprobation of this writer is weak, it is because his genius could not make it stronger; he has been right in telling you that his language has not been braided and festooned as elegantly as it might; that he has not pinched the miserable plaits of his phraseology, nor placed his patches and feathers with that correctness of millinery which became so exalted a person. If you agree with him, gentlemen of the jury, if you think that the man who ventures at the hazard of his own life, to rescue from the deep, "the drowned honour of his country," must not presume upon the guilty familiarity of plucking it up by the locks, I have no more to say. Do a courteous thing. Upright and honest jurors, find a civil and obliging verdict against the printer! And when you have done so, march through the ranks of your fellow-citizens to your own homes, and bear their looks as ye pass along; retire to the bosom of your families and your children, and when you are presiding over the morality of the parental board, tell those infants, who are to be the future men of Ireland, the history of this day. Form their young minds by your precepts, and confirm those precepts by your own example; teach them how discreetly allegiance may be perjured on the table, or loyalty be forsworn in the jury box;—and when you have done so, tell them the story of Orr; tell them of his captivity, of his children, of his hopes, of his disappointments, of his courage, and of his death; and when you find your little hearers hanging upon your lips, when you see their eyes overflow with sympathy and sorrow, and their young hearts bursting with the pangs of anticipated orphanage, tell them that you had the boldness,

and the injustice to stigmatize the man who had dared to publish the transaction !

Gentlemen, I believe I told you before, that the conduct of the viceroy was a small part indeed of the subject of this trial. If the vindication of his mere personal character had been, as it ought to have been, the sole object of this prosecution, I should have felt the most respectful regret at seeing a person of his high consideration come forward in a court of publick justice in one and the same breath to admit the truth, and to demand the punishment of a publication like the present ; to prevent the chance he might have had of such an accusation being disbelieved, and by a prosecution like this, to give to the passing stricture of a newspaper, that life, and body, and action, and reality, that proves it to all mankind, and makes the record of it indelible. Even as it is, I do own I feel the utmost concern, that his name should have been soiled by being mixed in a question of which it is the mere pretext and scape-goat. Mr. Attorney was too wise to state to you the real question, or the object which he wished to be answered by your verdict. Do you remember that he was pleased to say, that this publication was a base and foul misrepresentation of the virtue and wisdom of the government, and a false and audacious statement to the world, that the king's government in Ireland was base enough to pay informers for taking away the lives of the people. When I heard this statement to day, I doubted whether you were aware of its tendency or not. It is now necessary that I should explain it to you more at large.

You cannot be ignorant of the great conflict between prerogative and privilege which hath convulsed the country for the last fifteen years. When I say privilege, you cannot suppose that I mean the privileges of the house of commons ; I mean the privileges of the people. You are no strangers to the various modes by which the people laboured to approach their object. Delegations, conventions, remonstrances, resolutions, petitions to the parliament, petitions to the throne. It might not be decorous in this place to

state to you with any sharpness, the various modes of resistance that were employed on the other side ; but you, all of you seem old enough to remember the variety of acts of parliament that have been made, by which the people were deprived, session after session, of what they had supposed to be the known and established fundamentals, of the constitution ; the right of publick debate, the right of publick petition, the right of bail, the right of trial, the right of arms for self-defence ; until at last, even the relicks of popular privilege became superseded by military force ; the press extinguished ; and the state found its last intrenchment in the grave of the constitution. As little can you be strangers to the tremendous confederations of hundreds of thousands of our countrymen, of the nature and the objects of which such a variety of opinions have been propagated and entertained.

The writer of this letter has presumed to censure the recall of lord Fitzwilliam, as well as the measures of the present viceroy. Into this subject I do not enter : but you cannot yourselves forget, that the conciliatory measures of the former noble lord had produced an almost miraculous unanimity in this country ; and much do I regret, and sure I am that it is not without pain you can reflect, how unfortunately the conduct of his successour has terminated. His intentions might have been the best. I neither know them nor condemn them : but their terrible effects you cannot be blind to. Every new act of coercion has been followed by some new symptom of discontent, and every new attack provoked some new paroxysm of resentment, or some new combination of resistance. In this deplorable state of affairs, convulsed and distracted within, and menaced by a most formidable enemy from without, it was thought that publick safety might be found in union and conciliation, and repeated applications were made to the parliament of this kingdom for a calm inquiry into the complaints of the people. These applications were made in vain. Impressed by the same motives, Mr. Fox brought the same subject before the commons of England, and

ventured to ascribe the perilous state of Ireland to the severity of its government. Even his stupendous abilities, excited by the liveliest sympathy with our sufferings, and animated by the most ardent zeal to restore the strength with the union of the empire, were repeatedly exerted without success. The fact of discontent was denied; the fact of coercion was denied; and the consequence was the coercion became more implacable, and the discontent more threatening and irreconcilable. A similar application was made in the beginning of this session in the peers of Great Britain by our illustrious countryman Lord Moira, of whom I do not wonder that my learned friend should have observed, how much virtue can fling pedigree into the shade; or how much the transient honour of a body inherited from man, is obscured by the lustre of an intellect derived from God. He, after being an eye witness of this country, presented the miserable picture of what he had seen, and to the astonishment of every man in Ireland, the existence of those facts was ventured to be denied; the conduct of the present viceroy was justified and applauded; and the necessity of continuing that conduct was insisted upon, as the only means of preserving the constitution, the peace, and the prosperity of Ireland. The moment the learned counsel had talked of this publication as a false statement of the conduct of the government and the condition of the people, no man could be at a loss to see that that awful question which had been dismissed from the commons of Ireland, and from the lords and commons of Great Britain, is now brought forward to be tried by a side wind, and in a collateral way, by a criminal prosecution.

I tell you therefore, gentlemen of the jury, it is not with respect to Mr. Orr that your verdict is now sought. You are called upon, on your oaths, to say, that the government is wise and merciful; that the people are prosperous and happy; that military law ought to be continued; that the British constitution could not with safety be restored to this country; and

that the statements of a contrary import by your advocates in either country were libellous and false. I tell you these are the questions ; and I ask you, can you have the front to give the expected answer in the face of a community who know the country as well as you do? Let me ask you, how you could reconcile with such a verdict the jails, the tenders, the gibbets, the conflagrations, the murders, the proclamations that we hear of every day in the streets, and see every day in the country?—What are the processions of the learned counsel himself, circuit after circuit?—Merciful God, what is the state of Ireland, and where shall you find the wretched inhabitant of this land! You may find him perhaps in a jail, the only place of security, I had almost said, of ordinary habitation; you may see him flying by the conflagration of his own dwelling; or you may find his bones bleaching on the green fields of his country; or he may be found tossing upon the surface of the ocean, and mingling his groans with those tempests less savage than his persecutors, that drift him to a returnless distance from his family and his home. And yet, with these facts ringing in the ears, and staring in the face of the prosecutor, you are called upon to say, on your oaths, that these facts do not exist. You are called upon in defiance of shame, of truth of honour, to deny the sufferings under which you groan, and to flatter the persecution that tramples you under foot!

But the learned gentleman is further pleased to say, that the traverser has charged the government with the encouragement of informers. This, gentlemen, is another small fact that you are to deny at the hazard of your souls, and upon the solemnity of your oaths. You are upon your oaths to say to the sister country, that the government of Ireland uses no such abominable instruments of destruction as informers. Let me ask you honestly, what do you feel, when, in my hearing, when in the face of this audience, you are called upon to give a verdict that every man of us, and every man of you, know by the testimony of your own eyes to be utterly and absolutely false? I speak not

now of the publick proclamation of informers, with a promise of secrecy and of extravagant reward; I speak not of the fate of those horrid wretches who have been so often tranferred from the table to the dock, and from the dock to the pillory; I speak of what your own eyes have seen day after day, during the course of this commission, from the box where you are now sitting; the number of horrid miscreants who avowed upon their oaths, that they had come from the very seat of government—from the castle, where they had been worked upon by the fear of death and the hopes of compensation, to give evidence against their fellows, that the mild and wholesome counsels of this government are holden over these catcombs of living death, where the wretch that is buried a man, lies till his heart has time to fester and dissolve, and is then dug up a witness.

Is this fancy, or is it fact? Have you not seen him after his resurrection from that tomb, after having been dug out of the region of death and corruption, make his appearance upon the table, the living image of life and of death, and the supreme arbiter of both? Have you not marked when he entered, how the stormy wave of the multitude retired at his approach? Have you not marked how the human heart bowed to the supremacy of his power, in the undissembled homage of deferential horror? How his glance, like the lightning of heaven, seemed to rive the body of the accused, and mark it for the grave, while his voice warned the devoted wretch of wo and death; a death which no innocence can escape, no art elude, no force resist, no antidote prevent.—There was an antidote—a *juror's oath*—but even that adamant chain that bound the integrity of man to the throne of eternal justice, is solved and melted in the breath that issues from the *informer's mouth*. Conscience swings from her mooring, and the appalled and affrighted juror consults his own safety in the surrender of the victim :—

Et quæ sibi quisque timebat,
Unius in miseri exitium conversa tulere.

Gentlemen, I feel I must have tired your patience, but I have been forced into this length by the prosecutor who has thought fit to introduce those extraordinary topics, and to bring a question of mere politics to trial under the form of a criminal prosecution. I cannot say I am surprised that this has been done, or that you should be solicited by the same inducements and from the same motives, as if your verdict was a vote of approbation. I do not wonder that the government of Ireland should stand appalled at the state to which we are reduced. I wonder not that they should start at the publick voice, and labour to stifle or to contradict it. I wonder not that at this arduous crisis, when the very existence of the empire is at stake, when its strongest and most precious limb is not girt with the sword for battle, but pressed by the tourniquet for amputation; when they find the coldness of death already begun in those extremities where it never ends, that they are terrified at what they have done, and wish to say to the surviving parties of that empire, "they cannot say that we did it." I wonder not that they should consider their conduct as no immaterial question for a court of criminal jurisdiction, and wish anxiously as on an inquest of blood for the kind acquittal of a friendly jury. I wonder not they should wish to close the chasm they have opened by flinging you into the abyss. But trust me, my countrymen, you might perish in it, but you could not close it. Trust me if it is yet possible to close it, it can be done only by truth and honour. Trust me, that such an effect could no more be wrought by the sacrifice of a jury, than by the sacrifice of Orr. As a state measure the one would be as unwise and unavailing as the other. But while you are yet upon the brink, while you are yet visible, let me, before we part, remind you once more of your awful situation.—The law upon this subject gives you supreme dominion. Hope not for much assistance from his lordship. On such occasions perhaps the duty of the court is to be cold and neutral. I cannot but admire the dignity he has supported during

this trial ; I am grateful for his patience. But let me tell you it is not his province to fan the sacred flame of patriotism in the jury box. As he has born with the little extravagances of the law, do you bear with the little failings of the press. Let me therefore remind you, that though the day may soon come when our ashes shall be scattered before the winds of heaven, the memory of what you do cannot die. It will carry down to your posterity, your honour or your shame. In the presence and in the name of that ever living God, I do therefore conjure you to reflect that you have your characters, your consciences, that you have also the character, perhaps the ultimate destiny of your country in your hands. In that awful name, I do conjure you to have mercy upon your country and upon yourselves, and so to judge now, as you will hereafter be judged ; and I do now submit the fate of my client, and of that country which we yet have in common, to your disposal.

END OF THE THIRD VOLUME.



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